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THE
HISTORY OF VIRGINIA,
FROM
ITS FIRST SETTLEMENT
TO
THE PRESENT DAY.

BY JOHN BURK.

VOLUME II.



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CHAPTER I.

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HISTORY.

THE first eighteen years of the settlement of Virginia, disclose a series of events, so well attested by the striking coincidents of the events and concurrence of cotemporary historians, that all ground of cavil against their authenticity is removed ; and they have fairly sustained their claim to that credit, which is due to history.

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Preliminary observations.

1624.

THE ardor and intelligence of Smith, and the admirable order induced by the use of assemblies, gave to the transactions of the colony, a body and spirit to which they are indebted for this clearness and correspondence. To these causes in justice should be added, the public spirit and intelligence of the London company and their parliamentary practice of minuting and recording the proceedings of their own body.

BUT soon as the proprietary government sank beneath the arm of prerogative, the chain of facts is broken, and a black and melancholy chasm supplies the place of method and arrangement. During the existence of the proprietary government, historians could scarcely differ in the relation of facts : After its dissolution, there was hardly any chance of their agreement, or any means of reconciling or detecting their inconsistencies. The well grounded apprehensions excited among the colonists by the recall of their char-

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ter, and the character of the king, prevented them from immediately repairing the breaches made in their records by the hand of power. The letters of the governor and council in Virginia to the privy council, are marked by a coldness, a jealousy, and distance, but ill calculated to supply by conjecture or analogy, the want of more genuine matter; and the members of the British council, in the true spirit of courtiers, haughty, insincere, and incommunicative, confirmed the disgust and jealousy of the colony, by their cold and stunted communications; so that the man who should endeavor to depict the state of arts and manners, the military and civil events within the colony, by the help of this correspondence, will be infallibly disappointed.

Ignorance
of Virginia
history, dur-
ing the reign
of Charles I.
accounted
for.

IF due weight be allowed to these considerations, whatever regret it may occasion, it ought to excite little surprize, that there is not a single historian, European or American, who does not, in relating the events for many years subsequent to 1624, display a melancholy ignorance of his subject. Materials were alike wanting to them all; and this was a defect in this sort of composition, which no vigor of capacity, no general learning however extensive, could possibly counterbalance.

Materials
for history
did always
exist in Vir-
ginia.

IT is a fact deserving notice, that materials sufficiently ample for the purpose of history, did always exist in Virginia: Previous to the general developement of improvement within the state, they were piled together without order or digest in the archives of the government. Long before the revolution, the curiosity of some individuals cautiously intruded on their privacy: It was suggested, that at some future day, they might conduce to the ornament and advantage of the state;

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and henceforth some regard and attention began to be paid to their preservation;* but the revolution, as if spurning the use of precedent and authority, threatened to cut off all communication between the republic and her fore-fathers, by consigning to the flames, or to some other mode of destruction, the records of the state. A single copy, compiled and preserved by the pious care of an individual,† alone survived the wreck; destined like the ark of Noah, to preserve the family of national annals from extinction, and restore them to their station in history.

WITHOUT this copy, the only one in existence, it is possible like Dr. Robertson, to make ingenious and sensible reflections, and even to seize a few leading facts, which being the common property of several nations, could not be supposed to founder in the wreck of Virginian records; but for any purposes of historical detail and accuracy, so far as a series of facts and a lucid arrangement are desirable, without these records, it is not possible to write a faithful, full, and authentic history of Virginia.

THESE observations are thought necessary to explain to the reader the irreconcileable variance he will find between the transactions of this volume, and those of my predecessors; to guard against the surprise, perhaps the incredulity, that men of such high literary reputation, should have written fables instead of history; and to set aside any imputation of vanity or arrogance, which might personally be objected to me, in affecting thus to know more of my subject, than men, whose re-

* The state house was burnt during the rebellion of Bacon, in 1676, in 1698, and during the administration of Gooch. But the main loss sustained of valuable materials for history, was during the revolution.

† Colonel Byrd, of the parish of Westover,

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Plan of pro-
visional go-
vernment.

putations have been consecrated by the voice of posterity.

JUDGMENT was scarcely pronounced in his favor by the judges of his own court against the company, when the king impatient to exercise his power as sole proprietor, and vain of the occasion presented him of displaying his talents at legislation, appointed by his sole authority, a provisional government to administer the affairs of the colony, until time and study should enable him to digest a plan of permanent government, for which task, with his usual self complacency, he imagined himself peculiarly fitted.... This commission, which may be considered as a sort of interregnum, consisted of a governor and eleven assistants ; and it is remarkable as the first voluntary experiment in English history, of an administration formed avowedly on principles of accommodation. It comprised the warmest advocates of the former government, together with its most inveterate enemies ; and with a liberality, which is not easily reconciled with the character and conduct of the king, sir F. Wyatt, who had with so much ardor, supported the rights of the proprietors, was appointed governor.

18th Sept.
1625.

THE commission after a general recital of powers, which appear to go the full length of executive, legislative, and judicial authority ; besides the governor, recites the names of Francis West, sir G. Yeardley, George Sandys, Roger Smith, Ralph Hamer, John Martin, John Harvey, Samuel Matthews, Abraham Piercy, (Percey) Israel Maddison, and William Claiborne. A provision is made in the instrument for the possible death of sir F. Wyatt, by the nomination of sir G. Yeardley ; and the death of Yeardley is again provided for by the nomination of Harvey ; after which the assistants are instructed generally to

1625.

provide for vacancies by elections amongst themselves. No mention is made of an assembly; and considering that the project was not intended to be permanent, it was probably the king's intention to exclude from the simple machine of his provisional government, the tardy deliberations and possible opposition of a popular body. If it be permitted us to judge by his lofty notions of the absolute power and sacred nature of royal government, and his haughty and often contemptuous deportment towards his parliaments, we should perhaps be justified in construing his silence on this interesting head, into a determination of governing without a legislature.* But the probabilities, which in a general view seem to favor this analogy, must receive considerable qualification from the particular circumstances of the times. The lofty tone of prerogative was evidently on the decline; while parliaments were making daily accessions to their power and authority. The measures of the king were observed with a vigilant and jealous attention. The establishment of arbitrary principles of government in Virginia would not fail to alarm the advocates of freedom at home, by betraying the king's unfortunate and inveterate bias in favor of despotism, and his aversion to freedom; and the disaffection of the colonists would swell into a gale the breath of public indignation. The character of the governor too, and of a majority of the members of the provisional government, seem to forbid this conclusion.

* It will be recollect ed too, that one of the reasons al ledged by the commissioners why the proprietary govern ment should be dissolved, was, "that the course was too popular."

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March 27,
1625.

Orderly and
dignified de-
portment of
the colo-
nists after
dissolution
of the com-
pany.

BUT whatever were the intentions of the king, his plans were rendered abortive by his death. The colony continued to be governed as before the recal of the charter, by an executive council and an assembly of representatives chosen by the people.

DURING the alarming suspense, between the dissolution of the proprietary, and the adoption of the provisional government, the conduct of the colonists was invariably marked by great order and moderation. After the recal of their charter, they had, properly speaking, no lawful government; and the people might be said to have been released from all ties of subordination and obedience Yet, so confirmed were the habits of rational submission and decent manners, that the ordinary operations of government, and the settled regulations of laws and commerce, were carried on unembarrassed by riot, and unstained by excesses. But the moderation of the colonial government was mingled with a proper sense of their own dignity, and their duty to their constituents. Two instances are transmitted to us of the seasonable exertions of this becoming spirit, which shed considerable splendor on the decline of their power. Martin, a member of the first council, whose name has been frequently coupled, in the first volume of the History of Virginia, with feebleness and presumption; and whose extravagant claims and unfounded calumnies had embittered the last moments of the former government, and hastened its dissolution, continued to urge his right to a seat in the council of the colony ; and his claim was supported by the authority and even command of the king. Edward Sharpless, whose treachery to the government in 1624, was punished by the loss of his ears, laid his complaint before the privy council. The king, pretending to see in this transaction on-

1625.

ly premeditated insult and defiance to his authority, uttered his resentment, in angry invective and denunciation against the governor and assembly : Yet did the Virginia government continue obstinately to reject the pretension of Martin, and justify their treatment of Sharpless.*

THIS noble and spirited resistance justified by unanswerable arguments, and strengthened by obvious motives of expediency, did not fail to effect a change even on the haughty mind of the king. Time had been allowed for the prejudices industriously raised against the government and constitution of the colony, to pass away ; and he probably had begun to discover, that the faction, whose clamors had assisted him in taking the government out of the hands of the old proprietors, were actuated only by mean and selfish considerations. It has been frequently observed in history, that traitors have become objects of detestation and abhorrence to the most unprincipled tyrants, even tho' they condescend to reap the benefit of their treason. The conduct of James affords an additional evidence in support of this opinion ; and it must be a source of consolation to the advocates of justice and good faith, that there appears every where a natural and necessary policy, which will inevitably rise in judgment against the base and interested agents of apostacy and treason.

I HAVE before me, a letter from the governor and council in Virginia to the privy council in England, full of thanks to his majesty for taking off the imposition on tobacco ; and for his assurance, " That none of the obnoxious characters of the hostile faction, should be entrusted with any power or command within the colony "†

* Ancient Records, MSS.

† Ancient Records, MSS penes me—See Appendix—Wyatt, under the head correspondence.

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I.

1625.

Sir F. Wyatt
att adminis-
ters the go-
vernment,
until the ar-
rival of the
royal gover-
nor.

War with
Indians.

Battle of Pa-
munkey.

SIR F. Wyatt still remained in Virginia, waiting the arrival of his successor.* The death of his father rendered his presence in Ireland necessary, for the management of his private concerns; and the unsettled state of the country, held out no inducements to him for deferring this prudent and pious intention. His authority had legally terminated by the recal of the charter; but his patriotism and honor forbade him to desert his government, at a season so full of peril and uncertainty. The hostility of the Indians continued; and the utmost address of government; and the most cautious and watchful attention of individuals, were required to guard against the suddenness and secrecy of their movements. † Roused by the general example, the peaceable Opitchapan appeared in arms at the head of his countrymen, and displayed a spirit and skill not unworthy the heir of Powhatan.

His first encounter with the colonists took place at the close of the preceding year, in the neighborhood of Pamunkey, where he was opposed by the governor in person, at the head of a chosen body of regulars enured to labor, and fully acquainted with the country and the various stratagems of Indian warfare. Eight hundred bowmen, of the tribe of Pamunkey, composed the main body of the Indian army; the remainder consisted of detachments from the neighboring tribes; but the total strength and the minuter incidents of the conflict are buried in that obscurity, which conceals every thing relating to the history of this singular people. We are not even prepared for the encounter, by any preliminary explanation of its immediate causes; of the plan of attack, of the feats

* Ancient Records, MSS.

† *Ibidem.*

of individuals, or particular detachments. No mention is made of Opechancanough : No attempt to account for his absence from a battle fought in his own dominions, and principally by his own tribe, the whole force of which was brought out on the occasion. According to the letters of the council, the enemy at length gave way, having left a number of dead on the field, and witnessed the destruction of their habitations and corn. The same letters admit the loss on their part of 16 wounded, and frankly confess their inability to proceed to Matapony* for the want of ammunition. This town was the principal depot of the Indians, and the rallying point of their troops; and their acknowledged inability to reach it, altho' only four miles distant, proves that the battle was by no means decisive.

ONE fact is however, sufficiently established, even by this imperfect account. The Indians it appears, had not yet abandoned their habitations in the neighborhood of the colonists; by which we may infer, that their strength was yet unbroken, and that no material impression had yet been made on them, notwithstanding hostilities had been carried on for two years, embittered on both sides by circumstances of peculiar malignity.

THE tumult and hurry of a coronation, and afterwards the serious press of business, left not Charles or his council leisure to attend to the favorite project of the late king, a constitution for the colony ; and the plan of a provisional government was adopted without any other variation, save the omission of the names of Wyatt, Martin, and Maddison ; and the addition of John Pott doctor of physic, William Tucker, James Whita-

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I.
1625.

Indians re-
treat to Ma-
tapony.

* Ancient Records, MSS.

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1625.

Sept. 13,
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kers, Edward Blaney, and William Farrar. The executive thus composed, consisted of fourteen members including sir G. Yeardley, who was nominated governor, and William Claiborne, secretary of state. This project, like the former, is in the body of the commission, expressly declared to be only provisional,* until the king "could find more convenient means, upon mature advice, to give more ample directions for the same." No mention is made in the commission, nor in the body of instructions, of an assembly; and we are again left entirely to conjecture, as to the king's intentions on this interesting point.

THE same arguments which have been used to impeach the motives of James on a similar occasion, will apply with greater force to his son, who, to manners and a deportment more engaging and amiable, added all the pedantry of his father, and his high and inflexible notions of prerogative.

ALL the historians, who relate the events of Virginia during this period, have mistaken the king's commission to the governor and council for the constitution of government; and not being able to find any mention of an assembly in this instrument, they rashly concluded that the colony was disfranchised by the king. A more attentive examination of the commissions and more especially of the instrument in question, would have enabled them to correct this mistake. The commissions to the governor and council, in general, did nothing more than sanction the office, and define the powers of the executive. The commission to sir G. Yeardley and sir F. Wyatt; and even that to sir W. Berkeley did no more: When we hear the government of the colony in 1625, thanking

* See Appendix—Sir G. Yeardley—Head commission.

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James for his assurance, that none of the enemies of the former government should be employed in Virginia, and recollect that his intentions, as well as his plan of government, were professed to be adopted in spirit and substance by his successor; and when in the very body of the commission to George Yeardley, his powers are precisely and expressly limited to the sphere of executive duties, *for the five* last years preceding*, which was exactly the number of years, Virginia was blessed with a constitution and assembly; when it is known too, that assemblies convened and sat every year during the reign of Charles, and that the king, so far from viewing their sessions as an usurpation of his authority, did himself in 1627, †expressly direct their meeting, as will be seen, for special purposes; it is reasonable to infer, it was his intention that the legislative department should flow in its former channels. But whatever way this question shall be decided, there is complete evidence that the colony did so interpret the language of the king. Assemblies convened and deliberated in the usual form, unchecked and uninterrupted by royal interference, from the dissolution of the proprietary government, to the period, when a regular constitution was sent over with sir W. Berkeley, in 1639.‡

MEANWHILE the colonists proceeded regularly in their usual train, occasionally alarmed by reports of oppressive monopolies of their staple, and of intended changes in their government: But they preserved an attitude tranquil and dignified. The correspondence between their executive and the privy council continued uninterrupted. In

* Appendix—Sir G. Yeardley—Head commission.

† Head correspondence.

‡ Paper II. H. in General Appendix, vol. IV.

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one of these letters, the king is congratulated on his accession to the throne with becoming politeness ; and the colonists render him thanks for adopting his father's *friendly* disposition towards Virginia.* We are not told what part of his conduct it was, which drew out this excess of praise : perhaps it ought to be considered only as one of those strokes of flattery or finesse, which are considered essential to a suit at court. The same letters added, that the Indian war languished for the want of powder.

No battle of any account had been fought since the defeat of Otiatan : But the hatred and abhorrence of both sides, continued unabated ; and the settlements of the colonists were necessarily contracted, for the purpose of affording to each other mutual support and security. A considerable space, which lay between the Virginians and their enemies, was laid waste with fire, for the purpose of disclosing the stealthy approaches of the Indians, who under cover of the long grass and under-wood, and the gigantic shield of the oak and cypress, were able to advance unperceived, and rise up all at once almost from under the very feet of their enemies. But this boundary of fire could not always restrain the fury, nor elude the skill of the Indians, who instructed by experience in their inability to cope in pitched battle with the compact battalion and the dreadful arms of their enemies, wisely contented themselves with short and sudden incursions for plunder and revenge. For this sort of warfare, as they were admirably fitted, so they were often successful ; and they frequently carried into captivity some of the colonists, whom they had surprised or

* Ancient Records—Wyatt—Head correspondence.

overpowered; and carried off their corn and cattle.

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A STURGEON fishery is spoken of as existing at this time in Virginia, the expences of which, at this date, were stated to be 1700*l.* We are not informed whether this establishment was set on foot by the government, or by private adventurers. The experiment however did not meet the expectations of the projectors, and it appears to have been about this time abandoned.*

THE nature of the Indian war, by making travelling unsafe, unless in strong parties, produced a partial alteration in the mode of administering justice. The plantations which were most exposed, were severally provided with a special commission of four judges, who were empowered to decide all controversies absolutely, when the offences were not capital. A captain Nathaniel Bass with three others, are named as composing one of these commissions.† As the same Nathaniel Bass was shortly after deputed to ransom some prisoners taken by the Nansamonds, it is probable that his judicial commission was exercised on the Wrasqueake plantation.‡

So deep an impression had the massacre of 1622 made on the fears of the colonists, that the slightest rumors of a new attempt of the same nature, set all the plantations in commotion. This agitation is equally visible in the letters of the privy council, in the resolves of assemblies, and the proclamations of the executive. The highest courage and vigilance, and all their superiority in discipline and arms, were barely sufficient to support a contest with men, whose cunning and sagacity were not to be matched, and whose feelings were

1626.
Sturgeon
fishery.

Captain N.
Bass com-
missioned to
ransom pri-
soners from
Nansa-
monds.

* Ancient Records.

† *Ibidem.*

‡ *Ibidem.*

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wrought up to madness. However the colonists have been willing to speak contemptuously of their enemies, their conduct bespoke at once their apprehensions and respect. The spirit of Powhatan lived in the midst of his people : To use his own expressive language, the thirty tribes which composed the empire he had formed, were “ all brothers and Powhatans.” The mission of captain Bass to the Nansamonds, is complete evidence of a revolution in the minds of the colonists, in their opinions respecting this people. Even in modern times, a bare proposal for an exchange of prisoners, is a tacit acknowledgment of the power of our opponents. It will be seen, by and bye, that truces were occasionally proposed by the colonists, and that these truces were made perhaps on both sides, and broken, when favorable occasions of surprize and aggression presented themselves.

THE transactions of this year were wound up by a proclamation from the governor and council, directing a general vigilance and caution against the Indians, who, according to information, meditated another massacre ; and strictly forbidding a waste of gun-powder.* Several commissions were at the same time issued, to march against this people.

1627.

Hopes of the colonists raised by a letter from the privy council. THE year 1627 opened with better prospects to the colony. A letter from the privy council announces the king’s determination to preserve inviolate, all the *former interests* of Virginia. Notwithstanding the equivocal nature of the word interests, the colonists were determined to construe it in the sense most favorable to their wishes ; and it was solemnly considered as an assurance, that their darling government by assemblies, was guaranteed to them by the sacred promise of majesty. †

* Ancient Records.

† *Ibidem*—Sir G. Yeardley—head correspondence.

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1627.

Depressed
by reports
of a project-
ed monopo-
ly of their
staple.Receive sa-
tisfaction on
this head.But are pro-
hibited all
trade with
low coun-
tries.

SOME reports made their way into Virginia at this time, which sensibly checked their joy on this occasion....A Mr. Amis was in treaty with the king for an exclusive contract for tobacco. His project, which seems to have been listened to with a favorable ear, contained a clause, by which he conditioned to import into England 500,000 weight of the best Spanish varinas. This proposal, if successful, the colonists justly represented as decisive of their fate. Their only market would be glutted with the productions of a foreign nation, and their only staple would rot on their hands. A representation so just and forcible, could scarcely fail of producing the desired effect ; and whatever progress it made, the contract was refused :* But in return for this indulgence, they were forced to excuse their conduct in permitting a trade with the low countries, and promise that in future all their marketable productions should centre in England.

THEIR excuse respecting the diminution of the king's revenues, by their trade with the low countries, was, that the ship ——, belonged to the old adventurers, and that they did not know how far their authority extended on this occasion.†

A LETTER of instruction from the king to the governor and council, contains a number of particulars equally curious and important....After expressing his concern, that in so long a time the colony had been able to strike out no other staple than tobacco, 'well,' he added, 'might it be said, that the plantation was wholly built on 'smoke, which would easily turn into air, if either English tobacco was permitted to be planted, or Spanish imported.' Here we see the cha-

* Ancient records—Yeardley head correspondent.

† Ibidem.

Ibidem.

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1627.

racteristic qualities of James, in the language of his own son: The same play on words, the same puerile conceits, and the same antipathy to tobacco.*

HE proceeds to direct their attention to pitch, tar, pot-ashes, pipe staves, iron, mines of rich metals, vines, and bay salt. He recommends Wm. Capps, whom he had appointed a councellor, as a fit person to superintend the salt works; and proposes that the quality of the tobacco be improved and sent solely to the farmer of the king's customs, who will allow three shillings per pound, one shilling and three pence in hand, and the remainder in two equal instalments of five months each. But this project appears not to be definitive. He concludes by desiring that an assembly should be convened for the purpose of taking into consideration the proposal, and expressly enjoins that the result of their deliberations should be forwarded to him.†

HERE then is at length an express acknowledgment of the rights of Virginia to legislate for herself, and an explicit permission, and even order to her to exercise it.

AT the close of this year died, the governor sir G. Yeardley, a name of considerable celebrity in the history of Virginia. He was one of the old settlers, and on the departure of sir T. Dale, it has been seen, he acted as deputy governor at a season, when the utmost vigour and address were requisite to uphold the tottering establishment. Coming after a man whose ability and influence were so extensive as Dale's, he had to encounter comparisons, which could scarcely be in his favor. Yet did the government lose none of its vi-

King's pro-
posal re-
pecting to-
bacco.

Desires an
assembly to
be convened
to take it in
to consid-
eration.

Death of sir
G. Yeardley

His charac-
ter.

* Ancient Records—Yeardley, head correspondence.

† *Ibidem.*

Ibidem.

1627.

gor in his hands, nor the office of governor aught of its dignity. His administration was at the same time happily attempered by a spirit of humanity, and a respect for the rights of the colonists, an inattention to which, had been objected as the striking and incurable vice in the former administration. We see him afterwards knighted for his services, deputed to bring to judgment the tyrant Argal, and invested with the Godlike office of bestowing freedom on the colony.

It has been objected, that too little care had been used by him to guard against the massacre of the twenty-second of March: But after a fair hearing of all the circumstances,* at an extraordinary court of the London Company, it was proved that the familiarity and intimacy to which the Indians were admitted, and the practice of taking them to hunt, and teaching them the use of fire arms, were in use before his government; and that captain Smith himself was one of the authors of this imprudence.

AFTER the dissolution of the proprietary, we find him again invested with the government; and if he possessed any bad qualities, here was certainly a fair occasion presented him of exercising them with impunity.† Dr. Robertson and the historians who copy from him, make no scruple to assert, that his character throughout, and more especially whilst he acted under the royal commission, was rapacious and tyrannical. Mr. Stith, who in point of accuracy, is scarcely exceeded by any historian, clearly disproves the first part of the charge: The tears of the colony, and the regrets of the council, afford the best refutation of the remainder.

* Ancient Records, MSS.

† Robertson Am. vol. IV. 229.

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I.

1627.

Captain F. West, go-
vernor.

THE council according to the tenor of their commission, proceeded to supply the vacancy caused by the death of the late governor, by an election among themselves; and captain Francis West was chosen his successor. It has been seen above, that the contingent death or absence of Yeardley, was specially provided for in the king's commission, by the nomination of sir J. Harvey. It ought perhaps therefore to be concluded, that the appointment of the new governor was occasioned by the absence of Harvey in England. It is not however improbable, that the council saw in this man's conduct, the dawning of that rapacious and tyrannical spirit, which afterwards rendered him so detested and unpopular; and that through motives of public expedience, they ventured to overstep the bounds of their authority.

Dec. 4.

THE installation of the new government was announced by several proclamations, commanding the utmost caution and vigilance to be directed towards Indians, who were concerting another rising; and directing the strictest economy in the article of powder, which was heedlessly wasted in the celebration of marriages, and on other festive occasions.

ON the petition of the Virginia adventurers, it was ordered by the council exercising the duties and powers of a court, that the debts contracted by the colonists should be paid this year: But that owing to the fall in the price of tobacco, the law should be divested of its rigor, and that decisions should be made in the spirit of equity. A letter to the privy council of the same date, announces the death of sir G. Yeardley, and the appointment of West. These letters contain an eulogium on the late governor, which, springing neither from flattery nor interest, but built on the more lasting foundation of esteem and attachment, reflects equal

honor on the living and the dead : Yet this is the man whom the inattention or ignorance of our historians has coupled with Harvey, and represented as a monster of baseness and depravity. The want of funds for the support of the governor and other officers, is complained of in those dispatches, and the most urgent solicitations are made for a supply of soldiers and ammunition. They conclude, as usual, with a prayer against monopolies of their staple.

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I.

1628.

THE council, in reply to sir R. Heath, the king's attorney general, promise that an assembly should be immediately convened, and express an hope, that the king will be content with less than his usual profits. They state, as the ground of this indulgence, that one thousand new settlers had lately arrived; and that owing to the dearness of commodities, the people were scarcely able to subsist.

A thousand
new settlers
arrive.

IN the ancient records of the commonwealth, the name of John Potts appears as governor, unaccompanied by a single circumstance which might enable us to throw light on his election, or to account for the fate of mr. West. It is presumable, however, that he died early in this year, and that the election took place in conformity with the instructions set forth in the commission.*

John Potts
governor.

THE administration of Potts commenced with several prompt and vigorous measures for the defence of the colony; and with some severe regulations respecting its internal police. But the most important incident in this administration, was a session of the general assembly, convened in the usual form, and sanctioned by the king.† The first object of this body's attention, was at once obvious and important.... The quality of their principal staple had

March 20.

* Ancient Records.

† *Ibidem*—Potts—head correspondence,

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1628.

become debased by the rage for producing a sufficiency to answer the encreasing demands; and this deterioration had of late become so palpable, as to raise the clamors of the merchants, and to call forth the reproof of the king. Another evil, more immediately mischievous, was produced by this cupidity.... The attention of the colonists to the articles of primary necessity, was sensibly relaxed; and they were alarmed all at once by the approaches of famine. To remedy this evil, an act was passed, limiting* the culture of tobacco to so many plants per head; and sworn triers or inspectors were appointed to see that the intention of the legislature should be strictly carried into effect. This is the original of the several laws that have been enacted concerning the inspection of tobacco, which have eminently contributed to raise the credit of this staple so high in foreign markets. The culture of corn was at the same time commanded under severe penalties.

Assembly
refuses the
king's pro-
posal.

Lord Balti-
more ar-
rives.

AFTER this, the assembly proceeded to the investigation of the several subjects contained in the king's instructions; and having weighed maturely the particulars referred to, an answer was drafted, couched indeed in terms of deference and respect; but expressive of strong and unqualified dissent to the proposed conditions of the contract.

THE sameness of the events at this time, is enlivend by an incident of considerable interest

* A proclamation was issued, says doctor Robertson, by which, under pretences equally absurd and frivolous, they were prohibited from selling tobacco to any person, but certain commissioners appointed by the king to purchase it on his account. *p. 230, vol. IV.* He should have added, that the assembly rejected the conditions of the contract, and that they insisted on their right to set a price on their commodities.—*Ancient Records.*

Lord Baltimore, a catholic nobleman, allured by the rising reputation of the colony, abandoned his settlement at Newfoundland, and arrived in Virginia.

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I.

1628.

In England the bloody persecutions of Mary; the real or pretended discovery of Popish plots and conspiracies, and the alarm excited by the armada of Spain, had wrought the passions of the nation into a mingled fear and antipathy to the principles and persons of the Papists. This narrow and impolitic spirit qualified in the mother country, by a thousand circumstances, which softened its rigor and severity, had the fullest scope in the colonies for displaying its malignity. In small communities all attachments and prejudices are stronger and more lasting. The colony of Virginia was founded by men enthusiastically devoted to the principles of the reformation, at the time when the horror of papacy was at its height: And it was a peculiar provision in their charters,* that none of that obnoxious sect should be permitted to defile the soil of Virginia, either as citizens or denizens. It might be supposed, that the rights of hospitality would have exempted lord Baltimore, who was merely a visitor, from the influence of those severe and intolerant regulations; but the assembly, whether under the influence of a mistaken zeal, or what is perhaps more probable, a sense of duty, immediately on his arrival, tendered his lordship and his followers, the oaths of allegiance and supremacy.

It is unnecessary to argue in this place, on the propriety of tests in general; of their influence on the moral character of mankind, or the reasonableness of the test in question. It is a matter of

Test tendered
ed him.

* See the head charters, in general appendix.

CHAP. conscience, and conscience is the point of honor of a moralist. It appears indeed to have been unnecessary on the present occasion, to have disconcerted a visitor and a stranger, by an ungracious obtrusion on his opinions. His lordship rejected the tests tendered by the government, proposing at the same time for himself and his followers, a form which he declared himself ready to accept : This was refused on the plea, that a particular form was prescribed by the king ; and in this state, matters rested for the present.... the assembly contenting itself with laying the whole transaction before the privy council.*

I. **1628.** **He refuses it.** MEANWHILE the Indians continued to harrass Irruption of the more exposed plantations, and their eruptions Pamunkies sometimes burst upon the more central parts of and Chickahominies. the colony. The Pamunkies and Chickahomini- nies, as well from their position in the neighborhood of James-Town, as the influence of Opechanough, were the most conspicuous in this onset : The Nansamonds, with the several tribes dwelling in the neighborhood of James river, powerfully seconded their exertions.

Commissioners appointed to treat with them for peace & an exchange of prisoners.

Aug. 12.

By these combined operations, they had surprised and carried off a considerable number of colonists, leaving behind them, wherever they went, traces of the most savage desolation, and impressions of the deepest dismay. The colony alarmed by the loss of so many of its citizens, appointed commissioners to treat about a peace, and the ransom of prisoners : But the proclamation of the executive, which announces this determination, declares expressly an intention to deceive the Indians, until the prisoners were redeemed, and an occasion should offer to fall on them to advantage.† We are not informed, whether in any of

* Ancient Records.

† *Ibidem.*

its objects, this plan was attended with the desired success. There is, however, reason to believe, that the Indians penetrated the artifice. It is happily the nature of insincerity and bad faith, to defeat themselves. The Virginians by their open contempt of the truce proposed by themselves in 1622, had destroyed all faith in their promises.

CHAP.

I.

1628.

CONSIDERABLE allowance should certainly be made for the situation of the colonists....They were fighting for existence with a people, whose activity was incessant, and their hatred inextinguishable. The profound cunning and savage cruelty, which marked the massacre of 1622, had in some measure set the example of duplicity; and it would have been regarded as the extreme of infatuation, to wage a war on ordinary principles with a people, whose principal glory it was to conquer by surprize; who fought under the shelter of night, and in the midst of tempests; who refused quarter to the vanquished, and who vanished amid their forests, without leaving a single clue to detect their retreat.

THIS year there was another session of the general assembly. Their principal attention appears to have been directed to the suppression of the Indian war, which was daily becoming more destructive and alarming. Acts were passed, commanding the march of several detachments of the militia into the Indian country at three stated times every year; and instructions were given to the several commanders, to exercise martial law while on service, and to attempt the utter extermination of the savages. The other regulations were few and unimportant; and having drafted a letter to the members of the privy council, explanatory of the dispute with lord Baltimore, they adjourned.*

1629.
John Potts,
governor
October 16.

Session of
assembly.

* Ancient Records.

CHAP.

I.

1629. Sir J Her. ^{Some time this year, sir John Hervey entered} on his government, under the imposing authority of a royal commission ; and on the 24th March, in the following year, an assembly was convened ^{to meet him, and receive his instructions.}

nor. ^{His religi-} THE first act of this man's administration displays clearly the character of his mind. The arbitrary decrees of the court of high commission, had always been acknowledged as the guide to religious regulations in the colony : But although their authority was admitted, their influence was rarely exerted. A community of peril had abated the rigor of religious intolerance ; so that not a single severity for the breach and non-observance of the ordinances of the church, is recorded during the first twenty-six years. This relaxation in discipline was not suited to the imperious spirit of Hervey : A strict conformity to the canons of the church was enjoined, under severe penalties ; and the assembly had the complaisance to pass an act, which gave force to his wishes on the occasion.

BUT an object of still greater solicitude, was the increase of his own powers ; and in this, he could expect no assistance from the legislature, who recollect ed his conduct whilst acting as commissioner, in 1624. In this business he must act alone, save what small and uncertain assistance he might receive from the council, who suspected his principles, and were devoted to the interests of the colony. His object was twofold : To do away the popular branch, whose indignant opposition he had encountered in 1624, and whose strict and jealous scrutiny would embarrass, possibly, counteract his projects ; and to feed his avarice and rapacity, by assessing, levying, and holding the public revenue, without check or responsibility.

1629.

The appropriation of fines* to the personal uses of the governor, although it was not strictly sanctioned by any law, was in that loose and undefined state, which might countenance a considerable latitude of discretion ; and as the fund for the support of the governor was at once scanty and precarious, the application would appear reasonable, if not legal. Penalties were therefore continually multiplied against innumerable petty offences, but remotely hinted at in obsolete and mischievous statutes ; and a scale of commutation established by fines,† which went to swell the coffers, and stimulate the rapacity of the governor.

His encroachments at first were slow and cautious, and his professions specious and plausible. His plausible pretences. He feared at once to alarm into opposition, the spirits which he had encountered in 1623, when acting as one of the commissioners of the king. But the wounds his vanity had suffered on that occasion, rankled deep in his bosom, and he longed for an occasion to humble the proud and popular spirit, which had caused his disappointment and mortification. He began by engrossing to himself and the council, almost the whole business of legislation : For this purpose proclamations were issued without number, and little was left to the representatives of the people, save the disgusting and insulting form of registering the edicts and decrees of their tyrant.

By a regular progression, the government was

* King Charles I. 15th June, 14th year of his reign, gives all fines and amerciaments to governor and council, full two years after.—Ancient Records.

† The first informer of any slanderous report against the governor and council, have the fine ; one was whipt this day and lost his fine for concealing such slander.—*Verbatim from Records.*

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I.

1629.

thus gradually assuming the simple form of despotism, and it was hoped that the representatives of the people, stripped of all substantial authority, would lose the affections and confidence of their constituents, which would naturally be transferred to the possessors of actual power and authority. The council at first, not suspecting his intentions, or allured by the lust of power, perhaps partially for a time seconded his intentions.

Prosecution
of Potts for
stealing cat-
tle.

And convic-
tion.

Is reprieved

THE state of laws and society may be imperfectly collected from the following brief report of a criminal prosecution.... Doctor John Potts, the late governor, was indicted for stealing cattle. His jury consisted of thirteen, three of whom were counsellors. On the third* day of the trial, he was convicted : But "in regard of his quality and practice," as it is expressed in the Ancient Records, he was respite until the king's pleasure was known, and the whole council became his security. During the same session, William Matthews a servant was found guilty of petty treason by fourteen jurors, and sentenced to be drawn and hanged.

It would seem from these cases, that the number of jurors was either undefined, or was proportioned to the nature and enormity of the offences. In the case of Potts, who was a counsellor, we find that three of the pannel were of his own order ; and we trace in this privilege, something more than a faint resemblance to the constitution of the house of lords.

ABOUT this time, the criminal code was daily

* First day wholly spent in pleading ; next day in unnecessary disputation ; Potts endeavoring to prove Mr. Kingsmill one of the witnesses an hypocrite by the story of Gusman of Alfrack the rogue.—*Verbatim* from the Records.

enlarged by violent constructions of the English statutes, and of the powers vested in the executive by charter. Proclamations wearing the shape of laws, but nothing of their deliberation or justice, were issued without number in the wantonness of authority. It appears too, that the assembly was either afraid to apply a remedy to this licence, or suffered themselves willingly to be borne along with the torrent. This forbearance, it is more than probable arose from an apprehension, that their liberties were too recently and imperfectly established to justify a dispute with the representative of their sovereign.

In the midst of these arbitrary proceedings, there appeared some measures, which discover considerable attention to the public good....A fort was established at Point Comfort; encouragement was given to the cultivation of pot-ash and salt-petre; the salt-works, commenced some time before at Accomac, were ordered to be prosecuted with new vigor; semi-monthly courts were established at James town, at which the members of the council were to preside in turn. The regulations respecting religion and morals, although they savor too strongly of harshness, were often equally judicious. Severe penalties were denounced against forestallers and engrossers; and salutary regulations were adopted respecting the growth of corn,* the improvement of tobacco,† and the prosecution of the war against the Indians.‡

CHAP.

I.

1629.

Governor's
exactions

multiply.

Some judi-
cious regu-
lations.

* Every laborer to tend two acres of corn, or forfeit all his tobacco.

† Three thousand plants for men and two thousand for women and children. This was afterwards restricted to two thousand, nine leaves on a plant, and no slips or seconds were permitted to be planted.

‡ Ancient Records.

CHAP.
I.
1629.
Spirit of
commercial
enterprize.

THE dawn of commercial enterprize is visible at this time. The governor gave a commission to captain Nathaniel Bass to trade between the 34th and 41st degrees north latitude, or to sail to New-England, Nova-Scotia, or the West-Indies. The instructions of Bass contain some particulars deserving notice: He is desired to invite the inhabitants, particularly, those of New-England, to emigrate to Virginia; and to offer Delawarebay to such as were inclined from the coldness of their climate and the barrenness of their soil, to settle in Virginia: He was directed to sell them corn at twenty-five shillings per barrel, or fifteen, if they export it; and to open a trade for goats, cattle and hogs on reasonable terms.*

THE attention of the goverment was directed to other objects of more remote and speculative advantage. One hundred and seventy men were levied to explore a silver mine, which was reported to have been discovered some years before, in the mountains.†

March 2.
Public dis-
content en-
creases.

BUT notwithstanding these judicious regulations, the colony was hourly subjected to severe and arbitrary exactions, levied under the authority of proclamations; and the violation of personal rights was aggravated in the minds of an indignant people by the arrogance and unfeeling insolence of their tyrant. The whole colony resounded with his exactions and inhumanity; and nothing but the hope of speedy redress, could prevent an open resistance to his authority. The members of the council, who in the depression of the assembly's influence, saw at first only an encrease of their own consequence, were astonished to see themselves at once become mere shadows in the constitution,

* Ancient Records.

† *Ibidem.*

threw their weight into the scale of public disaffection.

In this temper, the different branches of government met each other in 1631; animated on the one side, by the ardor of liberty, and the confidence and support of the people ; the governor, on the other hand, resting on the influence of his commission, and the known character of the king.

THE session opened with few incidents deserving notice: It was determined to avoid all ground of offence, and if possible to carry their point seemingly with the concurrence of the government. With this view, the month of February was permitted to pass off without the agitation or discussion of a single constitutional question. But in March, every thing being at length ripe for the occasion, they ventured to pass a law strictly forbidding the levying any tax, without the consent of the assembly ;* and in order to secure and confirm the present disposition of the council in their favor, they enacted, that the governor should in future have no power to enfore the services of the colonists for his private benefit, or to levy them for war, without the consent of the *council*.† Thus at once a bold blow, was leveiled at the head and fountain of his usurpation; and the means and the object of his tyranny, the purse and the sword, were attempted to be wrested from him.

In discussing the propriety of these acts, Hervey was astonished to find himself alone in opposition.

WE are not told expressly, what was the conduct of the governor on this occasion. There is however strong presumption, that he gave his con-

CHAP.
I.

1631.
Session of
assembly.

It is resolv-
ed that the
governor
shall not
raise money
but by con-
sent of as-
sembly.

Or levy war
But with ad-
vice of coun-
cil.

* Ancient Records.

† *Ibidem.*

CHAP.
I.
1631.

stitutional assent to these acts. On the last day of the session, a letter was drafted to the privy council, signed by this body, wherein, after a brief sketch of the state of the colony, and an enumeration of the several provisions, which had been made for its improvement, they represent the want of adequate means to support with becoming dignity the office of governor;* and pray the immediate attention of their lordships to this object. This letter would lead us to suppose, that the rapacious conduct of the governor was in a great measure the consequence of his official poverty, and that the passage of the abovementioned acts was the result of a promise on the part of the assembly to procure more certain funds for his support.†

Acts of former assemblies repealed.

In this session the acts of all former assemblies were repealed, and some judicious regulations were established, for securing the independence of the members, by an exemption from arrest or from any other judicial process during the sitting.

1632.

In the Ancient Records of Virginia, the proceedings of the governor and council are disposed in order, before the minutes of the assembly. As the executive was presumed to be always in session, this is a natural and correct arrangement: But an equal attention is by no means paid to dates.... They are frequently confounded without any regard to time, and it is often difficult to distinguish between the proceedings of the two bodies, owing

* So little do our historians know of the proceedings of this period, that they make no mention of the governors Wyatt, West, or Potts. They assert, that Hervey governed without an assembly, although the acts of his assemblies have descended to us; and one session in particular, during his administration, made a thorough revision of the laws, repealing those of former assemblies.

† Ancient Records—Hervey—Head correspondence.

to the want of technical forms and expression. Those difficulties however I conceived not insurmountable, and it has been my study to supply the want of clearness and arrangement, which are manifest in those papers, by an increase on my part of industry and attention. The insertion of charters and other public papers, has been made with a like carelessness and inattention to the important considerations of order and arrangement ; but the dates being always accurate in the documents themselves, these were defects of minor consequence.

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I.

1632.

In the commencement of this year, I find a commission from the king to Edward earl of Dorset, Henry earl of Darby, Dudley viscount Dorchester, sir John Coke, sir John Davers, sir Robert Kille-grew, sir Thomas Rowe, sir Robert Heath, sir Kineage Tench, sir Dudley Diggs, sir John Holstenholm, sir F. Wyatt, sir John Brooks, sir Kenelm Digby, sir John Tench, John Banks, esq. Thomas Gibbs, esq. Samuel Rott, esq. George Sand, esq. John Wolstenholm, esq. N. Farrar, esq. Gab. Barber and John Farrar, esquires ; appointing them a council of superintendance over Virginia....empowering them to call for papers, or any other testimony, which they might conceive necessary for ascertaining the state of its laws, commerce, and government ; the result of which they were instructed to report to his majesty.*

King's com
mission to
Dorset and
others.

It would appear from this instrument, that the mind of the king was by no means decided, as to the permanent form of government that was to be given to Virginia. The serious opposition of the house of commons and the nation, left him little leisure to attend to legislation : And to this state

* Ancient Records—Hervey—Head commissions.

CHAP. I.
1632. of affairs, more than to any thing else, is it possibly owing that the colony was able during the whole of this reign, to preserve its independence. The noble stand made by their fellow subjects in England against power, was listened to by the colonists with emotions of transport and gratitude, and they were daily confirmed in their resolution to defend at all hazards the rights and immunities which they had earned by their sufferings, and which they inherited from their ancestors.

This year every fortieth man was sent to settle middle plantation, so called from its position between the two great rivers York and James; and the colony was called on to support them whilst on this service.

NOTWITHSTANDING the population had been augmented by a steady and rapid stream of emigration since 1624, and it might have been expected that the families of the emigrants would have been sufficient to have furnished wives to all the unmarried adventurers, it appears by a regulation of the council, that this interesting object of trade was yet continued. The seeming want of delicacy in this procedure, which sprang from necessity alone, is qualified by the nice and pointed attention paid to the chastity and reputation of their wives before, and their delicate and liberal deportment to them, after marriage. By an order of council of this year, two maids, who had become pregnant during the passage, were ordered to be sent back, as unworthy to propagate the race of Virginians.

Feb. 12. THE Indians of Chickahominy and Pamunkey made at this time an irruption so furious and destructive, that every twentieth man was dispatched

under the command of the governor, to *parley* with them. The word used on this occasion speaks forcibly the nature of the war, and the respect with which this brave people had inspired the colonists. But Opechancanough was resolved to preserve the advantages he had gained, and the war continued in its usual desultory form.

THE calamities incident to a war were heightened by an alarming scarcity; and in spite of the pride and usual policy of the government, the prohibition to trade with the Indians was taken off; and the curious phenomenon was seen, of a legal commerce, sanctioned by the lawful authorities, between two people engaged in a war the most vindictive and implacable.

THERE were two* sessions of assembly this year, in which several judicious regulations were adopted. The latter, which commenced on the fourth of September, appears to have been convened principally with the view of devising means to avert the dangers of famine, and the more dreaded mischiefs of an Indian war. On the latter point, it appears that their efforts were not wholly unsuccessful. A peace was formally concluded with the hostile tribes; but so little dependence was placed on the professions of this people, that even while the commissioners on both sides were adjusting the preliminaries, a proclamation was issued forbidding the colonists to trade or *parley* with them.†

In the former session an act was passed, commanding all the tobacco to be brought to six

CHAP.

I.

1632.

Chickahominies and Pamunkies

A session
of assemblyPeace con-
cluded with
Indians.

* Administration of Hervey.—“Statutes,” says doctor Robertson, “were published and taxes imposed, without once calling the representatives of the people to authorize them by their sanction.” p. 250. So grossly ignorant are even our most ingenious historians of the events of this period.

† Ancient Records—Hervey—Head proclamations.

CHAP.
I.

1633.

Discovery
of an exten-
sive land
speculation.

warehouses for inspection, and that, which was rejected to be burnt.*

THE following year is productive of no incident deserving attention, if we except the development of a land speculation on the part of the governor, highly injurious to the interests of the colony. It appears that by a collusion† with the king's commissioners, large tracts of land were disposed of to absentees, not unfrequently interfering with the rights of actual settlers, and involving subjects of future litigation. By this proceeding, the colony was threatened with dismemberment, and the mischiefs were aggravated by the conditions of those grants, which exempted the proprietors from the payment of quit rents.‡ Property conveyed with such absolute and unqualified formalities, seemed to give the proprietors the rights of sovereign authority, instead of the guarded restraints of a feudal tenure||; and an abundant source of litigation was laid up for posterity by establishing an *imperium in imperio*§ within the bosom of the colony.

Grant of
Maryland to
Lord Balti-
more.

It is supposed, that the grant of the preceding year to Cecilius Calvert, lord Baltimore, emanated immediately from the king, without any suggestion from the government of Virginia : The property conveyed was however supposed by the colony to be within the limits of their grant ; and it became a subject of the deepest concern that the soil on which they trod, and which they had earned by their labors and sufferings, was every day eaten from beneath their feet, by the dishonest and capricious bounty of a monarch, who contributed nothing to its improvement or discovery.

THE grant to lord Baltimore is however free

* Ancient Records. † *Ibidem.*

‡ *Ibidem.*

|| Yet the tenure was strictly feudal.

§ Lord Fairfax held a court baron.

from the principal objections to the other purchases: He did not interfere with the rights of former settlers, or with the government of Virginia....

CHAP.
I.
1633.

His object was the establishment of a new colony, which would be her friend and neighbor and ally against the assaults of the Indians or the machinations of distant powers. The prosperity and reputation of the nation would be advanced by new settlements; and an immense territory was yet reserved to Virginia, far exceeding her wants and her powers. In every point of view then the transfer appears judicious and salutary.

THE territory in question was bounded by a line drawn from Watkins' Point, on Chesapeake bay, to the ocean on the east; thence to that part of the estuary of Delaware, on the north, which lieth under the 40th degree, where New England is terminated; thence in a right line by the degree aforesaid, to the meridian of the fountain of the Potomac; thence following its course by the further bank to its confluence. It was called Maryland in honor to the queen, and was settled in the early part of this year by Leonard Calvert, the brother of the proprietor, and two hundred gentlemen, principally of the catholic persuasion.

AGAINST this grant, the most reasonable, but at the same time the most extensive of all those, which had been procured during the administration of Hervey, a petition was drafted to the king in the name of all the planters of Virginia. The members of the council acknowledged the justice of their claim; but felt themselves incompetent to afford the remedy; and with a casuistry in perfect consonance with the spirit of the courtiers of those times, they decided that lord Baltimore should retain his patent, and the petitioners their remedy at law.

Virginia remonstrates against the grant.

BUT Virginia, aware that little was to be ex-

CHAP.

I.

1638.

Liberal conduct of Virginia.

1631.

March 1632

Good understanding between Virginia & Maryland interrupted by Claiborne.

Flies to Virginia.

pected from a contest of this nature, dropt all farther opposition to her young sister ; and with a liberality and sound policy, which reflect equal honor on the heart and understanding, immediately proposed a league of commerce and amity, which should advance the prosperity and confirm the security of each other.

THOSE friendly dispositions were however well nigh defeated in their outset, by a circumstance, which was wholly unforeseen. William Claiborne, a member of the council, and secretary of state for Virginia, had procured a licence from the king, "to traffic in those parts of America, for which there is already no licence ;" and Hervey also granted his commission containing similar powers : Under the authority of this commission, Claiborne made a settlement in Kent-Isle, in the neighborhood of Annapolis, which he persisted in holding, in defiance of the representations of the government of Maryland. His conduct was aggravated by other circumstances, which, as they affected the vital interests of each colony, excited one common emotion in both. The Indians, the mortal enemies of the whites, by the discourses of Claiborne, were spirited into war against the people of Maryland ; and the league entered into by the two colonies for free trade and mutual protection, was about to become a dead letter by the intrigues of an unprincipled incendiary.

Having been indicted and found guilty of murder, piracy and sedition, he fled to Virginia. He hoped to find under the wing of his associate Hervey, impunity for the past, and the means to mature and consummate his future projects : But a complete revolution had been effected in the sentiments of Virginia during his absence. Hervey, detected in all his schemes, was narrowly watched by the members of his council, whilst his power was circum-

scribed within the narrowest limits, by the wholesome acts and determined spirit of the assembly ; and although he by no means relinquished the hope of establishing an arbitrary government in the colony, he found it necessary to proceed with the utmost caution and deliberation. He saw the course pursued by the king, and entertained no doubt that royal countenance and support might be gained in the attempt of abolishing assemblies : But it was neither safe nor expedient, in the present temper of the people, to avow this intention.

UNDER these impressions, he felt it expedient to disavow his connection with Claiborne, and to affect something like indignation at his conduct. But in spite of this grimace, the Maryland commissioners, who were instructed to reclaim Claiborne, and who had proved by the most indisputable evidence his several enormities, were unable to procure justice against this criminal. Hervey, affecting a sacred regard and reverence for the king's commission, as though it rendered hallowed and inviolate, the person of the most execrable villain, sent Claiborne with the witnesses to England ; accompanied, no doubt, by such a representation of facts, as would effectually defeat the ends of justice.*

BUT the time was near at hand, when this rapacious and tyrannical prefect would experience how vain and ineffectual are the projects of tyranny, when opposed to the indignation of freemen.

In the following year,† an order‡ of council was

CHAP.

I.

1633.

Is reclaim-
ed by Ma-
ryland.

1634.

Is sent to
England by
Hervey.

* Ancient Records.

† *Ibidem.*

‡ Their patience, says doctor Robertson, was at length exhausted ; and in a transport of popular rage and indignation, they seized the governor and sent him to England.—One would suppose by this account, that his suspension was

CHAP. made, that sir John Hervey, by reason of his haughtiness, rapacity and cruelty; his contempt of the rights of the colonists, and his usurpation of the privileges of the council, should be suspended from his office until the king's pleasure could be known; and in a short time after, the assembly, on the petition* of a great majority of the planters, proceeded to collect the evidence in support of the charges; and two of their own body were deputed to carry the act of accusation, together with the prisoner in custody, to England.

J.

1635.

New exactions of Hervey.

April 28.

May.

Council suspend him from his government.

THUS was effected, without bloodshed, a great revolution, without producing the slightest alteration in the constitution of government, or the tranquility of society. The seizure of Hervey was not the result of a violent paroxysm of resentment; a short-lived spasm of gauded and exasperated feeling: From the year 1632, the opposition was a calm, determined and dignified assertion of right, bottomed on the constitution and the laws, and supported by solid arguments: It was rather a series of reform, than a sudden and violent irruption; and instead of exciting any surprize as an act either extraordinary or unforeseen, it should be regarded as the natural consequence of the previous measures which had been adopted.

Captain J. West, governor. THIS revolution, beside affording an immediate relief from a yoke galling and oppressive, was attended with the farther advantage of raising high the character of the colony for boldness and intelligence. The acts of 1624 were prefaced by a preamble in all respects equivalent to a bill of rights, at a time, when the parent state was yet struggling to obtain this important and salutary

* Ancient Records.

the work of a mob, instead of a joint exertion of the council and popular branch, as it is here represented.

CHAP.

I.

1635.

object. In their victory over Hervey, they had again the good fortune to set the example of an ardent, steady and effectual resistance, which the nation afterwards did not disdain to adopt. Happy had it been for the ill-fated monarch, if taught by the fate of Hervey, and the noble ardor displayed by a feeble and distant colony in defence of her rights, he had learned in time to set just limits to his authority, and respect the constitution and rights of the nation : What a waste of blood had been spared, wantonly sacrificed at the shrine of madness and folly : From what calamities and mortifications had he saved himself and his family.... But it is in the order of providence that the greatest of human blessings should often arise out of violence and oppression ; and it should act as a warning to man, with how much caution he should guard the rights of his nature, when their recovery is attended with so many circumstances of violence and peril.

It should not be omitted, that in 1634, the colony was divided into eight shires.* The names of these divisions were, James City, Henrico, Charles-City, Elizabeth-City, Warwick River, Warasqueake, Charles River and Accomac.

In the following year, an ordinance was made by the privy council, making London the sole port of entry for the productions of the plantations ; and a commission was granted to sir William Russell and others, to see that the king's intentions were not defected : They were further empowered to

June 19,
1635.

* Lieutenants were appointed to each as in England, and in a more especial manner to take care of the war against the Indians ; and as in England sheriffs shall be elected, as in England to have the same power as them and sergeants and bailiffs when the law requires.—A literal transcript from Records.

CHAP. I.
1635

enquire into the state of the colony, and report what farther provisions were necessary to encrease the royal revenues, and the prosperity of the colony.*

THIS measure, according to the language of the commission, had its origin in “ creditable information, that many of the planters residing upon the said colony, have suffered, and are still likely to suffer, under the burden of many oppressions, occasioned by the secret and indirect trade of particular merchants and shopkeepers, who make a prey of them and their labors, by supplying their necessaries with commodities at such unreasonable rates, that they are usually forced to pay forty or sixty pounds weight of tobacco for a pair of shoes ; with such like,” &c. &c.

MEANWHILE the commissioners, who had been appointed to support the act of accusation against Hervey, instead of the fair and impartial hearing, which they conceived themselves entitled to, as the advocates of justice, and the representatives of a brave and suffering people, were treated by the king and council with the most supercilious disdain, or the most chilling and mortifying neglect. The conduct of Virginia was looked upon as little short of treason,† by a court, which was daily in the habit of punishing the most distant reflections on its authority, with the most severe and rigorous punishment ; and her deputies, as presumptuous intruders, who deserved chastisement instead of redress. Apprehensions were entertained, that these seditious movements would com-

* Ancient Records—Hervey—Head Commissions.

† Robertson's Am. vol. IV. p. 252.

When this news was brought to Charles I. his majesty was very much displeased ; and without hearing any thing, caused him to return governor again.—Beverly, p. 48.

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I.

1636.

muncate at home with the mass of ill humor and discontent, which required but a single spark to inflame it into open rebellion. The unaccommodating spirit of the house of commons, had given Charles an unconquerable disgust and antipathy to the name and use of popular assemblies: But what was only a bold and unwarrantable freedom in parliament, he could not help considering in the council and burgesses of Virginia, as the most presumptuous and insolent* familiarity; and he resolved to act in the most absolute contempt and defiance of their complaints.

HERVEY, released from his bonds, had now become accuser in his turn; and the calumnies of a disgraced and banished tyrant, were listened to with complacency and attention, while the deputies of a brave and loyal people were regarded as traitors, and forbidden to appear in the presence of their sovereign. To aggravate these insults, their aggressor was reinstated in his former authority, and sent back to Virginia, enflamed with revenge, and armed with full powers to gratify his malevolent passions.†

BUT the time was approaching, when other considerations would influence the mind and direct the councils of the king. For more than eleven years he had maintained himself by the mere force of his prerogative, without the aid of parliament; but every expedient for raising supplies, was near-

* To him the conduct of the colonists appeared not only to be an usurpation of his right to judge and punish one of his own officers, but an open and audacious act of rebellion against his authority — *Rob. Am. vol. IV. p. 252.*

The deputies of the colony, (says the author of the Life of Washington) were therefore sternly received.—They were not received at all.

† Robertson—Beverley.

CHAP. I.
1639. ly exhausted, and he found himself compelled by his pressing necessities, and the encreasing discontents, to convene once more the great council of the nation. Amongst a body, possessed of so much courage and intelligence, he was aware the affairs of the colony would be examined* with an eye of scrutiny, and censured with a free and daring invective. The establishment of arbitrary government in the colonies, would naturally confirm the suspicions, and alarm the fears of his subjects at home. It would appear as if there was an inveterate propensity and bias in favor of despotism in their monarch, and that an occasion only was waited for, when he might introduce his favorite maxims, as the sole guide and rule of his government.

UNDER these considerations, Charles felt it expedient to affect a show of liberality, by voluntarily removing the main grounds of disgust in Virginia. For this purpose, sir William Berkeley, whose reputation stood high for nice honor and engaging manners, was appointed governor; and the right of the colonists to free government was recognized in the fullest and amplest manner in the royal instructions.†

* As the colonists had applied for relief to a former parliament, it might be expected with certainty, that they would lay their case before the first meeting of an assembly, in which they were secure of a favorable audience.

Robertson, 234.

† Though the tenor of sir William Berkeley's commission, was the same with that of his predecessor, he received instructions under the great seal, by which he was empowered to declare, that in all its concerns, the colony was to be governed according to the laws of England: He was directed to issue writs for electing representatives of the people, who, in conjunction with the governor and council, were to form a general assembly, and to possess supreme legislative

BUT he was too proud to expose his measures to the charges of weakness and inconsistency, by the condemnation of Hervey; and this man, degraded from his office, and no longer dangerous, was permitted to remain in Virginia as one of the council.*

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* Ancient Records, MSS. penes me.

authority in the colony. Now all these powers the colony had actually exercised before his arrival, as fully as after. He was further "ordered to establish courts of justice, in which all questions, whether civil or criminal, were to be decided agreeably to the forms of judicial proceedings in the mother country."—*Rob. Am. vol. IV. pt. 235.*

CHAPTER II.

Fatal consequences of the intestine divisions in the colony—Opechancanough takes advantage of them to execute another massacre—Motives for the Indian insurrection—Loss of the English—Sir W. Berkeley marches into the Indian country; pursues Opechancanough with a body of cavalry; surprizes him, and takes him prisoner to James town—He is wounded by one of his guards—His wonderful firmness and magnanimity; his reproof of sir W. Berkeley; his death and character—Dissolution of the Powhatan confederacy—Peace with the different tribes—Regulations of the governor respecting religion—James-Town fixed on as the seat of government—Peculiarity in the structure of juries—Estate of the late governor sold for the payment of his debts—George Sandys' company agent petitions for the restoration of the proprietary—Grand assembly remonstrate against it—The supposed attachment of Virginia to the royal cause explained—Government administered in the name of king—Reflections on Hume—Parliament turn their attention to the colonies—Ordinance of 1651—Sir G. Aiskew dispatched with a fleet and army, for the purpose of reducing the colonies; enters the Chesapeake—Gallant conduct of sir William Berkeley—Favorable terms of capitulation—A sort of *interregnum*—Richard Bennett elected governor

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II.

provisionally, with a council of thirteen—Number of representatives—Slight variance between governor and council—State of Indians; humane regulations in their favor—Act of assembly in favor of sir William Berkeley, who was yet in colony—Edward Diggs called to the council in the recess—Inroads of the Rappahannock Indians; a levy in the contiguous counties to oppose them—Edward Diggs governor—Irruption of the Rechahecrians—Captain Hill dispatched with an hundred men to remove them; is joined by Totopotomoi, with an hundred Indians; is defeated; Totopotomoi slain, with the greater part of his warriors—Payment of taxes the only qualification of the right of suffrage—Matthews governor elect—Diggs appointed to unite with Bennett and Matthews, to support the interests of Virginia in England—Motives for sending their governors on this business—Sir W. Berkeley—Reflections on his delay in the colony; on the nature of the insurrection in his favor; on the government of the protector and commonwealth; on the total ignorance or misrepresentation of this æra by historians.

CHAPTER II.

THE dissensions in the colony, although they eventuated in an improvement of its constitution, were productive of a calamity, which had well nigh rendered useless those acquisitions. During the agitation produced by the excesses of Hervey, and their efforts to free themselves from his tyranny, the attention of the colonists was all at once withdrawn from Indian affairs, at the moment when new and urgent circumstances required an increase of vigilance and circumspection. The vast grants* procured during the administration of Hervey, had given occasion to various encroachments on the territories secured to the Indians,† by the treaty of 1636; and this people, already driven by the tide of emigration from the sea board, and the rich and delightful vallies adjacent to the rivers, found themselves exposed to flesh aggressions from the unjust claims of land speculators, at the heads of the rivers, whither they had retired for subsistence and security.

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II.

1639-40

Fatal conse-
quences of
intestine di-
visions.

IT was not enough that they had abandoned to

* Their boundaries, (says *Robertson*, vol IV. p. 231,) from inattention or imperfect acquaintance with the geography of the country, were so inaccurately defined, that large tracts already occupied and planted, were often included in them.

† The subtle Indians, who took all advantages, resented the encroachments on them by his (Hervey's) grants.

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1640.

their invaders, the delightful regions, where their fathers had been placed by the bounty of heaven; and where, before the coming of the English, their days had rolled on in an enchanting round of innocence and gaiety....where they possessed abundance without labor, and independence without government. The little that remained of their possessions was attempted to be wrested from them by the insatiable avarice and rapacity of their enemies. But it was not only their property that was insecure; they were about to be bereaved of their independence, the noblest attribute of a savage.

How sad and melancholy was the change from their former to their present condition: Until the year 1636, they were engaged in an incessant war with the English, in which, although they often dreadfully retaliated on their invaders, they sustained a constant, although gradual diminution of their strength. Every inch of ground was disputed with desperate valor and inimitable address: But alas, savage valor and savage address, were of little avail, against the dreadful combinations of the white man's genius. They had indeed proved, that their enemies were mortal; but they were mortals, who combated with the arms* of the Gods. But although they felt the superiority of their enemies, they disdained to listen to the suggestions of despair. They brooded in secret over their wrongs, waiting for some favorable occasion

* What a striking contrast does the North American present to the Indian of South America: His dread of fire arms appears to have been but small and short-lived; he never was enslaved; he set himself to work to meet the European with his own weapons, and soon excelled him in the use of the rifle; and after two centuries, so formidable has he become, that the Europeans are often obliged to purchase peace, and sometimes even a bare neutrality.

when they might fall with their united strength on
their oppressors.

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OPECHANCAOUGH, from his retreat at the head of York river, witnessed with secret pleasure the progress of these discontents, which his influence and discourses had principally contributed to excite and exasperate. His sagacious mind quickly discovered, in the divisions of the colony, the occasion, which he had long waited for with impatience and anxiety ; and he lost not a moment in concerting measures for improving it to the purposes of his patriotism and revenge.

ALTHOUGH now grown old, his conduct exhibited on this occasion, the union of a burning ardor and an indefatigable industry ; and his orders were conveyed with electric rapidity during the silence of midnight, to the remotest tribes of the confederacy.

THE Pamunkies and Chickahominies, who were immediately under his influence, together with the Paspaheys, Warasqueakes and Mataponies, as well from their situation as their courage; and their experience of the English mode of fighting, were looked upon as the main strength of the confederacy : And with these, Opechancanough resolved to make the principal onset in person. The more distant stations were assigned to the principal war chiefs of the several tribes : And thus a war, which raged from the mouth of the Chesapeake, to the heads of all the great rivers, which discharge themselves into it, was so simple as to render confusion impossible. The leaders were simply directed, at a stated hour, to attack the English settlements with their whole force and the utmost fury.

BUT few particulars of this war have been transmitted to our times ; so that the day, or even the year, of its commencement, is known with little

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1640.

certainty. Beverley* seems to think, that it took place in 1639, during the administration of Hervey; and he asserts, that there was no peace or truce after this, with the Indians, during the life time of Opechancanough. There is complete evidence on the face of the Ancient Records of this state, that this chief was at peace with the English in 1640 and 1641; so that if the latter position of this historian be correct, it must have broken out subsequent to this period. In the former of these years, the punishment of John Burton,† who had been found guilty of the murder of an Indian, was remitted at the intercession of Opechancanough and his great men; and in the latter end of 1641, Thomas Rolfe,‡ the son of Pocahontas, petitioned the governor for permission to visit his kinsman Opechancanough, and Cleopatre, the sister of his mother. These circumstances prove uncontestedly that the war occasioned by the massacre, and which was marked on both sides by the most ferocious and vindictive spirit, had not yet commenced.

THERE is reason to believe that this event|| took place in the winter of 1641, or the early part of the following year, before the colony had regained its tranquility, under the mild and able administration of Berkeley. But in whatever way this question shall be decided, it is certain that most of the frontier settlements were broken up by the fury of this irruption.

* p. 59.—But be that matter how it will, from that time to his captivity, there never was the least truce between them and the English.

† Ancient Records.

‡ *Ibidem.*

|| It is but fair to state, that an old manuscript, which in many of its particulars I have found to be authentic, states that it took place *about* the year 1640.

THE colonists lost five hundred persons,* whose mutilated and bleeding bodies, scattered over the earth, gave dreadful proof of the fury and inextinguishable hatred of their enemies. In addition to this severe loss, several were hurried away into a captivity worse than death. The habitations and corn; the instruments of farming, and household utensils; in a word, every thing that was essential to their comfort or convenience, was consumed with fire; while the minds of the survivors were appalled by the fears of famine, and the gloomiest presages of future calamities.

THIS interruption had been decisive of the fate of Virginia, but for the operation of circumstances over which Opechancanough could have no controul. The wise measures devised by former assemblies, had prohibited all trade and intercourse with this people, except at stated markets on the frontiers;† and it was absolutely necessary that the frontiers should be forced, before the interior and the seat of government could be assailed. Time was thus afforded the inland counties to arm in their defence; to prepare for which, they had timely notice from the fugitives, who had been able to effect their escape from amidst the ruins of their houses, and the dead bodies of their murdered countrymen.

THE massacre fell with the greatest weight‡ on the plantations on the south side of James river, and the heads of all the rivers; and it was particularly destructive at the source of York or Pamunkey

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II.

1640.

Loss of the English.

* *Beverley, p. 49.*

† But this execution did not take so general effect as formerly, because the Indians were not so frequently suffered to come among the inner habitations of the English.

Beverley p. 49.

‡ *Beverley, p. 49.*

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II.

1640.

1639.

Sir William
Berkeley
marches in-
to the Indian
country.

river, where, since the massacre of 1624, Opechan-
canough had retired with his own tribe, and where
on this occasion he commanded in person.

A CALAMITY so dreadful and unexpected, gave
a shock so violent, as years of peace, and the ut-
most exertions of a mild and able administration
were unable to repair. Sir William Berkeley, on
his arrival, had set on foot various projects for the
improvement* of the commerce, manufactures,
and staple of the country; and the promise of roy-
al bounty was solemnly pledged to the author of any
useful and successful experiment. Warmed by
the genial ray and fostering hand of a liberal pa-
tronage, the genius of the colony was beginning to
peep out and expand itself;† but the terrors of
an Indian war suspended the labors of the loom
and the plough, together with the speculations of
the closet. All, who were able to bear arms, were
embodied as a militia for the defence of the colo-
ny; while a chosen body, comprising every twen-
tieth‡ man, commanded by the governor in per-
son, marched into the enemy's country.

THE operations of this war, which raged hence-
forth without any intermission till the death of
Opechancanough, are not detailed by any histo-
rian. The early records of the state, which might
have supplied this defect, are silent on the subject.
The relation of Beverley,|| unsatisfactory and im-
perfect as it is, contains every particular, which
has survived the ravages of time, and the inaccu-
racy of the original reporters.

* He encouraged the country in several essays of pot-ash,
soap, salt, flax, hemp, silk and cotton.—Beverley, p. 50.

† But the Indian war ensuing upon this last massacre,
was a great obstruction to these good designs, by requiring
all the spare men to be employed in defence of the colony.

Beverley, p. 50.

‡ Ancient Records, MSS.

¶ p. 56.

WE are told, that Opechancarough at this time was so decrepid by age, as to be unable to walk; but that his spirit, rising above the ruins of his body, directed from the litter on which he was carried by his Indians, the onset and the retreat of his warriors.

THE excessive fatigues he encountered in this difficult and laborious service, completed the wreck of his constitution: His flesh* became macerated; his sinews lost their tone and elasticity; and his eye-lids were so heavy, that he could not see, unless they were lifted up by his attendants. In this forlorn condition, he was surprized by sir W. Berkeley, who pursued him close with a squadron of light cavalry, and carried in triumph to James-Town.

To the honor of the governor it should be recorded, that his conduct to his illustrious and venerable captive, was invariably marked by great tenderness and humanity; and the members of the council and assembly partook in the interest and pity excited by his majestic and manly appearance. In general too, the feelings of the colonists did honor to their nature on this occasion: They saw the terrible enemy, who had been the author of so many mischiefs to Virginia, now a captive in their hands, bending under the load of years, and shattered by the hardships of war; and they generously resolved to bury the remembrances of their injuries, in his present melancholy reverse of fortune.

As for him, his deportment was suitable to his former glory, and the lofty spirit and maxims of an Indian hero. He disdained to utter any complaint, or to manifest the slightest uneasiness;

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1640.

He surprises and takes him prisoner to James Town.

* Beverley.

CHAP. and instead of deprecating the tortures, which he
II. calculated were preparing for him, his language
1640. and demeanor bespoke the most absolute contempt
and defiance : But for the most part, his spirit was
shrouded in a haughty and disdainful reserve. So
consummate was his real or assumed indifference
and apathy, that he rarely permitted his eye-lids
to be lifted up, as if he was desirous of shewing
his enemies, that there was nothing in their pos-
session, which he conceived worthy to excite his
apprehensions, or attract his curiosity.

In this state he continued several days, attend-
ed by his faithful Indians, who begged to be ad-
mitted to the honor of sharing his fate, and per-
forming those offices about their beloved chief,
which his merits and infirmities required : But
neither his undaunted spirit, nor the generosity of
his enemies, could preserve his life. He was base-
ly shot through the back by one of the soldiers
appointed to guard him, without any other provo-
cation, than the recollection of injuries, which
should have been forgotten ; and the appre-
hension of escape, which it was his duty to pre-
vent.*

He is wound-
ed by one
of his guards

**His astonish-
ing firm-
ness and
magnani-
mity.**

To the last moment, his courage remained un-
broken, and the nearer death approached, the grea-
ter caution he used in concealing his dejection,
and preserving the dignity and serenity of his as-
pect. A few moments before he expired, he heard
an unusual bustle in his prison : Having ordered
his attendants to lift up his eye-lids, he discovered
a number of persons crowding round him, for the
purpose of gratifying an unseasonable and cruel cu-

* One of the soldiers resenting the calamities the co'ony had suffered by this prince's means, basely shot him thro' the back, after he was made prisoner, of which wound he died.—*Beverley*, p. 57.

riosity. The dying chief felt this indignity with a keenness of sensibility the more violent, as it was new and unforeseen. It was a burst of passion, a momentary ascendancy of nature over the habits of education ; and its exhibition and effect must be acknowledged to correspond with the greatness of the occasion. Without deigning to notice the intruders, he raised himself from the earth, and with the voice and tone of authority, commanded that the governor should be immediately called in. When he made his appearance, Opechancanough scornfully told him, that, "had it been his fortune to have taken sir William Berkeley prisoner, he should not meanly have exposed him as a show to his people."*

IT is said, that sir William Berkeley intended sending him to England,† with the view of augmenting his reputation by the present of a royal captive, who could call into the field, ten‡ times as many Indians as there were English in Virginia.

THE appearance of this chief, now nearly an hundred years old, would be attended with another beneficial effect : It would refute the slanders industriously propagated against the salubrity and healthiness of the climate.

||So little is known with certainty of the history

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II.

1640.

His re-
proach of
sir William
Berkeley.

His death.

* Beverley.

† Ibidem.

‡ Beverley—This is doubtless exaggerated : But the strength of the Indians was better known at this time, than it could have been when capt. Smith made a rough estimate of some of the tribes. It furnishes another evidence of the inaccuracy of the received calculation. Several other data will occur in the course of this volume, which render it wholly inadmissible.

¶ Opechancanough, says Beverley, was a man of large stature, noble presence, and extraordinary parts. Though he had no advantage of literature, that being no where to be

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II.

1640.

And charac-
ter.

of this people, that we remain utterly at a loss to decide whether this chief was the brother of Powhatan, or an adventurer who had come from another people, and established himself alone by his courage and ability.

It is asserted by some, I know not on what foundation, that he came originally from the mines of St. Barbe,* or some of the tribes bordering on the empire of Mexico. But whatever variance may exist on this head, there is an universal concurrence as to the character of his mind and understanding. He is represented to have been bold, crafty, insinuating, insincere; a perfect master of all

found amongst the American Indians. Yet he was perfectly skilled in the art of governing his rude countrymen.

* This king, in Smith's history, is called the brother of Powhatan, but by the Indians he was not so esteemed: For they say he was a prince of a foreign nation, and came to them a great way from the south-west: And by their account, we suppose him to have come from the Spanish Indians, some where near Mexico, or the mines of St. Barbe.

Beverley, p. 49.

The sachem or chief of the tribe, (says Mr. Jefferson) appears to be by election: And sometimes persons who are strangers, and adopted into the tribe, are promoted to this dignity on account of their abilities. Thus on the arrival of Captain Smith, the first founder of the colony of Virginia, Opechancanough, who was sachem or chief of the Chickahomines, one of the tribes of the Powhatans, is said to have been of another tribe, and even of another nation; so that no certain account could be obtained of his origin or descent.

Notes on Virginia, p. 308.

This account, if true, would suggest some important reflections, respecting the way in which this part of the continent was originally peopled. If we combine with this, the traditions of the Mexicans respecting their origin, there is room to conjecture, that the independent communities of aborigines, which were extended to the neighborhood of the Esquimaux, were originally formed from the overflowing of the Mexican empire, by emigrations arising from choice or necessity.

the arts of simulation and dissimulation: In short, he was the Hannibal of Virginia. CHAP. II.

DURING the life-time of Powhatan, although his talents as a war chief and counsellor were universally acknowledged, the concentration of authority in the person of the emperor; the veneration inspired by his aged and majestic figure, and the memory of his achievements, threw at a distance all competition and rivalship. But when the aged founder of the Powhatan confederacy had paid the debt of nature, and his authority devolved by inheritance on a feeble and decrepid successor, Opechancanough rose immediately to his natural elevation, in spite of the imposing influence of descent and inheritance. 1640.

OTIATAN retained indeed the nominal authority: The Indians, humane and just to each other, had no objection to his title of great werowance, or to any other title he thought proper to assume.... But their attendance in war or council is so completely discretionary, that a single member of a tribe, may reject the determination of the whole nation, and refuse to take part in any projects they have adopted. Before such judges, the active and enterprizing Opechancanough had every thing to hope. The whole confederacy were jealous of the English, and were anxious for their destruction: He seconded the national impulse, and offered to direct their vengeance. The address and courage displayed in conducting the massacre, and in his subsequent enterprizes, justified the public confidence; and among the English, he was universally regarded as a more formidable antagonist than even Powhatan.

BUT whatever judgment shall be pronounced on their respective merits, after a candid review of their actions; if it shall be thought that the palm should be adjudged to Powhatan, by reason of the

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imputed glories of his youth and his manhood, which, although they were atchieved before the coming of the English, lived in the tradition of all the tribes, and were confirmed by the respect and reverence his presence, and even his name, every where inspired. However the decision shall go as it regards their general actions, it must be admitted that no single feat of Powhatan, can match with the death of Opechancanough. History informs us by innumerable examples, that great actions may be easily atchieved by the association of numbers, the ardor and incentive of example, and the prospect of power : But it is reserved for the truly great soul to preserve its poise and stature in the gloom of dungeons, and even in the embraces of death.

THE death of Powhatan was comparatively happy....His country was at peace : He was surrounded by his family : He could transmit his power to his descendants ; and he was assured that his remains would be deposited with the proper ceremonies, in the barrow of his tribe.

OPECHANCANOUGH lived to see the destruction of his people ; and for any purpose of glory or security, might have justly considered himself as at the last of his race. He labored under the tortures of a mortal wound, embittered by the infirmities of age, and aggravated by a sense of his deplorable condition, in the midst of enemies he detested, and excluded from the sight and consolations of his brave companions : Yet not all the gloom of his adversity, could shroud the majesty of his mind.

AT the age of one hundred years ; blind, unable to stand ; wounded, and a captive ; Opechancanough continued to be an hero. Then it was, as if all his faculties were roused and collected for the purpose of shedding a glory on his latter mo-

ments, that he uttered the noble reproof against sir William Berkeley, for suffering his infirmities to be insulted by the gaze of vulgar curiosity....
The Spartans or the stoicks have produced no equal to this situation.

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II.

1640.

I AM aware that the bare attempt to paint the moral qualities of an Indian, will be derided by the squeamishness of civilization. It will be objected, that Opechancanough was a savage; that all savages have the same character, the elements of which are cunning, treachery, ferocity and superstition; that these furnish an appearance by far too simple and uniform for the varieties of character; and that every thing beyond them is added by the imagination of the author. These objections are specious, but that is all....The American Indian is a different order of savages, as far removed in his moral qualities from the people of the other quarters of the globe, as he is in his person and complexion; and I am satisfied, that the history of this people would form the most instructive chapter in the history of man.

THE death of this great leader was the signal for the dissolution of the famous confederacy, which had been formed by the genius of Powhatan, and which had been cemented by the coming of the English, and the superior mind of Opechancanough. Having lost their leader, the several tribes relapsed into their former state of patriarchal government, which, as being less complex than that of federation, was more congenial to their habits and principles: Possibly too, there was no war chief in their estimation worthy to be the successor of the chief of Pamunkey. The pressure of war, and the difficulty of raising provisions amongst a people, whose improvidence never looks beyond the moment, were additional motives for this separation.

Dissolution
of the Pow-
hatan fede-
racy.

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II.

1640.

Peace with
all the tribes

THE advantages that might arise from these circumstances, were immediately discerned by the sagacious mind of the governor; and he lost not a moment in improving them to his advantage.

FOR this purpose, overtures of peace and friendship, dictated rather by humanity than a spirit of conquest, were separately made to the heads of tribes, which, after much caution and interruption, were at length accepted and solemnly ratified in presence of the commissioners of the colony and assemblies of the Indians.

1642.

THE termination of this long and destructive war, left the colony full leisure to attend to objects of internal improvement, and the extension of its commerce. The mild administration of sir William Berkeley, by leaving the people no apprehensions for their freedom, seconded those favorable circumstances. Although the governor was warmly attached to the royal cause, he found it impracticable to decline the use of popular assemblies* in Virginia. The fate of Hervey was fresh in his remembrance, and his conduct was so mo-

* The following paper is inserted, notwithstanding its style is harsh, obscure and strained, because it serves to shew the dependence of the government on the people of Virginia, and the respect which even sir William Berkeley entertained for their opinion :

A REMONSTRANCE OF THE GRAND ASSEMBLY.

Whereas the natural and most wished effects of assemblies may summarily be comprehended, in the ordering and enacting good and wholesome laws, &c. ratifying and relieving such disorders and grievances which are incident to all states and republicks, in which considerations this assembly may seem to have declined and swerved from those true intents of so happy constitutions, if their endeavors and declarations be apprehended, either by a bare view of the laws, few in number, and therefore not answering the expectations of a meeting exceeding the customary limits of time in this

elled, as to be directly the opposite of a man so fallen and degraded. With this view, his respect to the popular privileges of the assembly was punc-

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place used, or by comparing the payments and levies now imposed much more free in any respect, that in them the grievance of the inhabitants were principally stated.

It is therefore thought fit by them to present and remonstrate to the colony the weighty consequence and benefits redounding thereto by their late consultations.

1st. The first is instanced by repealing the act of four pounds per poll annually to the governor, which is a benefit descending unto us and our posterity, which we acknowledge contributed to us by your present governor.

Next, by abolishing condemnations and censures (presidential from the time of the corporation) of the inhabitants from the colony's service wherein we may not likewise silence the bounty of our present governor, in preferring the publick freedom before his particular profit, in which act we may also pronounce the inhabitants absolutely to have recorded the birth-right of our mother nation, and the remains of the late company's oppression, to be quite extinguished.

3rdly. The near approach which we have made to the laws and customs of England in proceedings of the court and trials of causes.

4thly. The rules and forms set down for deciding of differences and debates concerning titles of land or otherwise.

5thly. The appropriating and accommodating of parishes with moats and bounds, that God Almighty may be more duly served.

6thly. The treaties and overtures with the governor and province of Maryland, requiring time for maturing, and very successful in the bay of Chissopeack.

7thly. The settling of peace and friendship with the Indians by mutual capitulations and articles, agreed and concluded on in writing, by many messages and interruptions lengthened.

8thly. The common grievances relieved and removed in assessments, proportioning in some measure payments according to men's abilities and estates, augmented unto the wealthier sort by the number of milk kind, and by that relief afforded to the poorer sort of the inhabitants, which course, through the strangeness thereof, could not but require much time of controverting and debating.

CHAP. II. tilious and pointed. It is a curious fact, that while Charles thought it expedient to remove to York,* in order to be out of the sight of a parliament he feared and detested, sir William Berkeley, who had all the prejudices and antipathies of his master, should be cordially co-operating with the council and house of burgesses, in measures calculated to secure the liberties of a colony. But notwithstanding this liberality in the general conduct of his administration, his political bias would insensibly betray itself on several minute and subordinate occasions.

Regulations respecting religion.

THE bold innovations of Laud, which gave so much offence to the nation and parliament, and his severe dogmas against the puritans,† were introduced as the sole rule and guide of ecclesiastical

9thly. Lastly—The gracious inclination of his majesty ever ready to our protection, and now more particularly assured to us, together with the concurrence of a happy parliament in England, where the greater motives to us to take the opportunity of establishing our liberties and privileges, and settling our estates often heretofore assaulted and threatened, and now lately invaded by the late corporation, and of preventing the future designs of monopolizers, contractors, preemptors, ever hitherto incessant upon us, not only bereaving us of all cheerfulness and alacrity, but usurping the benefit and disposition of our labors, and we apprehend no time would be mispent or labor misplaced, in gaining firm peace to ourselves and posterity, and a future immunity and ease from taxes and impositions, which we expect to be the fruits of our endeavors, and to which end we have thought reasonable for us liberally and freely to open our purses, not doubting but all well affected persons will with all zeal and good affection embrace the purchase, and pray to Almighty God for the success.

Given at a grand assembly, at James-City, the first of July, 1642.

WILLIAM BERKELEY.

* Hume.

† Beverley, 57.

proceedings; and a sanctimonious respect and reverence for the person and doctrines of this prelate, were commanded under strict penalties. Not the slightest allusion was indulged against royal and episcopal authority. About this time Stephen Reek* was set in the pillory two hours, with a label on his back, expressing his offence, fined 50*l.* and imprisoned during pleasure, for saying his majesty was at confession with the lord Canterbury. None but conformists in the strictest and most absolute sense, were permitted to reside in the colony, lest they should introduce the heretical contagion of their principles.

THE assemblies satisfied with having established their legislative independence, and grateful probably to the king for his free and liberal concessions, seconded the wishes of the governor. But however disposed they might be to guard the purity and freedom of their religion, they were averse to the least abatement or diminution of their political rights, whether it originated in the governors or the king; and nothing, I am apt to think, more eminently conduced to preserve them from aggression, than their established character for courage and intelligence.

IT should not be omitted, that by a law of 1639, James-Town† was fixed on as the permanent seat of government. The colony was called on by the king's letters to grant assistance to Henry lord Maltravers,‡ in settling Carolina; and on the motion of captain William Howley,|| who was his lordship's deputy, an order of council was made to that effect.

I FIND in the proceedings of this year, another

* Ancient Records.

† *Ibidem.*

‡ *Ibidem.*

|| *Ibidem.*

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Peculiarity
in the struc-
ture of ju-
ries.

striking peculiarity in the structure of juries: The pannel of a petty jury, on a trial for murder, consisted of twenty-four men; another for felony of twelve. I have perused with much attention the several tracts relative to the history of juries in England, and am unable to discover any thing analogous to these capricious innovations.

Estate of the late governor sold for payment of his debts.

By an act of this year, the expences of burgesses were ordered to be levied by monthly courts; and by an order of the general court, the real and personal estate of the late governor, were sold for the payment of his debts, with a reservation of a life interest in the land, and an exception of some chattels necessary for his immediate subsistence.*

DURING this session too, three new counties were established....Accomac, Upper and Lower Norfolk; and a regulation was made, prohibiting the sheriffs to compel any person to leave the plantation on which he resided, for the purpose of choosing burgesses.†

G. Sandys,
company's
agent petiti-
ons for res-
toration of
company.

THE session of assembly of this year exhibits in a striking point of view the fortunate effects of the seeming liberality of Charles to his person and cause; and the ascendancy which the new governor was daily gaining by his kind and popular qualities. It is well known that the colony was decidedly averse to the dissolution of the proprietary government, and with a generous warmth, remonstrated‡ against the measure, as impolitic and

* Ancient Records.

† Ibidem.

‡ *The Declaration against the Company, to be entered as the twenty-first act.*

To all christian people to whom these presents shall come to be read, heard or understood, we the governor, council and burgesses of the grand assembly in Virginia, send greeting in our Lord God everlasting:—Whereas George Sandys, esq being appointed agent for the colony by the assem-

unconstitutional. But the extension and security of their rights under the royal government, and the profound tranquility enjoyed under a governor

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bly 1636, hath exhibited a petition in the name of the adventurers and planters in Virginia, to the honorable house of commons in parliament in England, for restoring the letters patent of incorporation to the late treasurer and company, mistaking his advice and instructions from the said assembly for his so doing, it being neither the meaning nor intent of the said assembly or inhabitants here, for to give way for the introducing of the said company or any other.

To which intent and purpose, this grand assembly having fully debated and maturely considered the reasons on both sides, as well arguing for as against a company, and looking back to the times under the company, as also upon the present state of the colony, under his majesty's government, they find the late company in their government intolerable, the present comparatively happy, and that the old corporation cannot with any possibility be again introduced, without absolute ruin and dissolution to the colony, for these reasons following, viz :

The intolerable calamity of the colony we find proved by many illegal proceedings and barbarous torments inflicted on divers of his majesty's subjects, in the time of the said company's government, all which appear per deposition taken at a grand assembly, anno 1632, and is known to divers now living in the colony---Also we find the whole trade of the colony, to the general grievance and complaint of the inhabitants, then and now appearing to us monopolized by the said company, inasmuch, that upon the going home of any person for his country, it was not free for him to carry with him the fruits of his labor for his own comfort and relief, but was forced to bring it to the magazine of the company, and there to exchange it for useless and unprofitable wares.

The present happiness is exemplified to us by the freedom of yearly assemblies, warranted to us by his majesty's gracious instruction, and the legal trial by juries in all criminal causes and civil, where it shall be demanded, and above all, by his majesty's royal encouragement unto us upon all occasions, to address ourselves unto him by our humble petitions, which doth so much distinguish our happiness, from that of the former times, that private letters to friends were rarely admitted passage.

CHAP. of soft and insinuating manners, had effected an entire revolution, on this head.

L. **1642.** **I**t seems that mr. George Sandys,* one of the

To the third, for introducing the old corporation without ruin and dissolution to the colony at present, as a thing not possible, we conceive we have these just grounds :

1st. There can be no right nor property introduced for them without proving the illegality of the king's proceedings, so that all grants since upon such a foundation, must of consequence be and tending to displeasure. We the present planters enjoy our lands by immediate grant from his majesty. If, as it is argued in their petition, the king had no power to grant our possessions, we must give place to their claim, which is one invincible argument, (as we conceive) of the ruin and dissolution to the colony at present; when, if their pretences take place, we must be ousted of all: And whereas it is alledged, that the charter of orders from the treasurer and company, anno 1618, gives us claim and right to be members of the corporation, quatænus planters, we find the company by said charters, where members, planters and adventurers, are considered by themselves, & distinguished from planters and adventurers, not being members: And we further find ourselves (being the king's grantees) in the said charters condemned, the clause plainly pronouncing in these words—We do ordain, that all such persons as of their own voluntary will and authority shall remove into Virginia, without any grant from us in a great and general quarter court, in writing under our seals, shall be deemed enemies, as they are occupiers of our land, that is to say, of the common land of us the said treasurer and company; much more such grantors as have their right from an erroneous, as they pretend.

2dly. That if the company be removed, by which means they as aforesaid have leave, and the strength of their own charter of orders, publicly in the company to displant us, the wiser world we hope will excuse us, if we be weary to depart with what (next our lives,) nearest concerns us, which are our estates, being the livelihood of ourselves, wives and children, to the courtesey and will of such task masters, from whom we have already experienced so much oppression.

3dly. We may not admit of so unnatural a distance as a company, will interfere between his majesty and his subjects, from whose immediate protection we have received so many royal favors and gracious blessings.

* Ancient Records.

colony's agents in England had, in the name of CHAP.
the inhabitants, petitioned the parliament to re- II.
store the treasurer and company. No time could 1642.

For by such admission—1st. We shall degenerate from the condition of our birth, naturalized under a monarchical government, and not a popular and tumultuous government, depending upon the greatest number of votes of persons of several humors and dispositions, as this of a company must be granted to be, from whose general quarter courts, all laws binding the planters here, did and would again issue.

2dly. We cannot without the natural breach of duty and religion, give up and resign the lands which we had granted and hold from the king, upon certain annual rents, fitter, as we humbly conceive, if his majesty shall so please, for a branch of your own royal stem, than for a company to the claim of a corporation; for besides our birth, our possessions enjoin us as a fealty, without a *salva fide aliis dominis*. We conceive, by admission to a company, the freedom of our trade (which is the life and blood of a commonwealth) is impeached, for those who, with most secret reservation and most subtlety, argue for a company, though they pretend to submit the government to the king, yet they reserve to the corporation property to the land, and power of managing the trade; which word managing, in any sense taken, we can no way interpret, than a convertible to monopolizing; for whether in this sense, that all the commodities raised in the colony, shall be parted with, exchanged or vended, at such rates and prices as they shall set down, or such wares and merchandizes as they shall import, or be disposed into their magazines, or such bottoms as shall from time to time be licensed or ordered by them; or whether in this sense, that the planters only shall sell such commodities and in such proportion as by advice and determination of their quarter courts shall be directed; still the terms and condition of the planters are subjected to a monopoly, that is to their sole guidance, governing and managing, with what reason we leave to the world to judge: For though we submit in the depth of judgment and understanding to such as shall sit at the helm, there yet is most possible and indeed very probable, that at this distance wise men may mistake, and there is more likelihood that such as are acquainted with the clime and accidents thereof, may upon better grounds prescribe our advantages, both for quality and quantity of conditions, which by the bounty of his majesty we now enjoy by our

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have been more favorable for such an object, if it had been thought desirable. The celebrated long parliament was now in session, and any petition

grand assemblies, and in any other way will be destructive unto us according to our possessions.

Though we may admit the pretence, that the government shall be made good to the king, that is, that the king shall nominate and appoint the governor, first, we find it directly, besides the scope of the past, which insists upon restoring the company in all formalities; next we take it at best but for a fallacy and trap, not of capacity enough to catch men with eyes and foresight, for upon a supposition that a governor shall be named and appointed by his majesty; yet his dependence, so far forth as continuing and displacing, will by reason of their power and interest in great men there, vest in them, which necessarily brings with it conformity to their wills in whatsoever shall be commanded, which, how pernicious it will be to the colony, according to our assertion in this head, we leave to the ablest judgments.

We the governor, council, and burgesses of this present grand assembly, having taken into serious consideration these and many other dangerous effects, which must be concomitant in and from a company or corporation, have thought fit to declare, and hereby do declare, for ourselves and all the commonalty of this colony, that it was never desired, sought after, or endeavored to be sought for, either directly or indirectly, by the consent of any grand assembly, or the common consent of the people: And we do hereby further declare and testify to all the world, that we will never admit the restoring of the said company, or any for or in their behalves, saving to ourselves herein a most faithful and loyal obedience to his sacred majesty, our dread sovereign, whose royal protection and allowance, and maintenance of this our just declaration and protestation, we doubt not, according to his accustomed clemency and benignity to his subjects to find: And we do further enact, and be it hereby enacted and manifested, per authority aforesaid, that what person or persons whatsoever either is or hereafter shall be any planter or adventurer, shall go about by any way or means, either directly or indirectly, to sue for, advise, assist, abet, countenance or contrive the reduction of this colony, to a company or corporation, or introducing a contract or monopoly upon our persons, lands, or commodities, upon due proof or conviction of any of the premises, viz. going about by any way or means

or remonstrance that went to the abridgment or CHAP.
disparagement of royal authority, was sure of a II
favorable reception before their tribunal. But 1642.

to sue for, advise, assist, abet, countenance or contrive the reducing this colony to a company, or corporation, or to introduce a contract or monopoly as aforesaid, upon due conviction as aforesaid, shall be held and deemed an enemy to the colony, and shall forfeit his or their whole estate or estates that shall be found within the limits of the colony, the one half shall be and come to public uses, the other moiety or half to the informer. This act to be in force, and the penalty therein contained to extend to all the adventurers and planters now residing in the colony, upon the publication at James-City, and to all adventurers and planters now in England or elsewhere out of the limits of the colony, within five days after the arrival, of this our said declaration, protestation and act, within the realm of England. Signed under our hand and seal, with our seal of the colony, at James-City, the first April, in the year of our lord 1643, and the eighteenth year of the reign of our sovereign lord king Charles over England, &c. The governor, council and burgesses of this present grand assembly, taking into serious consideration the many and weighty business begun in this present grand assembly, and which do yet remain unfinished, and to prevent all doubts whether the passing of the acts already agreed upon, will not be a determination of this assembly, do hereby enact, and by the authority of this present grand assembly, be it enacted, that notwithstanding the passing and enacting of divers acts already agreed upon, this present assembly shall be determined, but that it be adjourned to the Thursday in Whitsun week, being the second day of June next coming, at which time and day the whole body of this present assembly, consisting of the governor, council, and burgesses, shall repair to James-City, then and there to determine and finish all such matters as shall be found necessary to be concluded and enacted, whether in matters already begun, or in any business that shall then begin or be proposed, that shall redound to the glory of God, the honor of his majesty, and the good of the colony.

William Berke'ey, Francis Wyatt, Samuel Matthews,
Charles Wormley, William Pierce, George Manesv, Henry
Brown, Thomas Pettus, Richard Bennett, George Ludlow,

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Grand assembly remonstrate against it.

the colony, alive to the impressions of gratitude, which weak and mistaken as it was on this occasion, deserves something more than apology, considering the nobleness of its motive, formally disavowed the act of Mr. Sandys, and entreated permission to remain under a government, which had been productive of such prosperity and content.

THE king's* answer to this remonstrance, dat-

Richard Townsend, John Weale, William Butler, John Upton, Edward Hill, Thomas Fellows, Obedience Robins, Thomas Harwood, George Worleigh, Benjamin Harrison, Matthew Gough, George Hardy, Thomas Dane, James Johnson, Francis Fowler, John Hill, Matthew Chiles, Thomas Bernard, Ford Franklin, William Dracker, Edward Windham.

GOD SAVE THE KING.

* CHARLES R.—Trusty and well beloved, we greet you well. Whereas we have received a petition from you our governor, council and burgesses of the grand assembly of Virginia, together with a protestation and declaration of the first of April, against a petition presented in your names to the house of commons in this kingdom, for the restoring the letters patent f. r incorporating of the late treasurer and company contrary to your intent and meaning, and against all such as shall go about to alienate you from our immediate protection: And whereas by your petition, that we should confirm this your declaration and protestation, under our royal signet, and transmit it to that our colony—these are to signify, that your acknowledgment of our grace, bounty and favor towards you, and your so earnest desire to continue under our immediate protection, is very agreeable unto us; and that as we had not before the least intention to consent to the introduction of any company over that our colony, so we are by it much confirmed in our resolutions, as thinking it unfit to change a form of government wherein (besides many other reasons given, and to begin) our subjects there having had so long experience of it, receive so much contentment and satisfaction—And this our approbation of your declaration and protestation, we have thought fit to transmit to you, under our royal signet. Given at our court at York, the 5th July, 1642.

Our trustry and well beloved, our governor, council and burgesses of the grand assembly in Virginia.

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Supposed attachment of Virginia to the royal cause accounted for,

ed at York, where he held his court, evinces his sensibility at this proof of grateful affection. The encreasing discontents of the nation had of late made such effusions of respect, both rare and uncommon amongst his subjects; and possibly the cast of misfortune, with which his life was beginning to be tinged, rendered this testimony more valuable in his estimation. In truth, his conduct to Virginia by no means entitled him to this gratitude.* To her own intelligence and public spirit was she solely indebted for whatever advantages she had obtained.

THERE is strong reason to believe, that religious zeal alone, so prevalent at this time throughout the empire, was the principal cause of their supposed attachment to the king.

IT will be recollect'd, that a strict conformity† to the canons of the church, had from the very commencement been enforced in the colony; and that no sectaries had been permitted to settle among them. By these precautions, the influence of the puritans was totally excluded. In addition to this, shortly after the arrival of sir William Berkeley, "to prevent the infection from reaching this country, they made several laws against the puritans, tho' there were as yet none amongst them."‡

THE measures of the patriots in England, they saw manifestly tended to a complete alteration, or rather abolition of the forms and discipline of that church, which they had been accustomed to revere; and the puritans, whom they held in abhor-

* He carefully endeavored to take the merit of having granted voluntarily to his people of Virginia, such privileges as he foresaw would be extorted from him.

Rob. America, vol. IV. p. 235.

† See Charters.

‡ *Beverley, p. 57.*

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rence, appeared as the principal agents in this scheme for the destruction of religion.

THIS, I apprehend, was the principal, if not the only, motive for their new-born ardor in favor of royalty. Their political attachments were obviously on the other side ; and in the career of liberty and resistance, they had even anticipated and outstripped the parliament. They had the same pointed regard for their rights and privileges, as this illustrious body ; they resisted with equal ardor, and for a long time with greater success, the encroachments and the insolence of the crown. Their cause was palpably the same, and nothing but the infatuation or phrenzy of superstition, could have made them separate.

THE mere influence of sir William Berkeley is in vain resorted to for an explanation of this inconsistency.

IN the common forms and civilities of life, his personal consideration was doubtless great ; and the qualities of his heart appeared to confirm the pre-possession of his manners : But that they would have sacrificed any thing so essential, so precious in their estimation, as their rights, or the principles of freedom, to the graces of a soft and winning exterior, or the weakness of personal attachment, cannot be collected from any part of their history.

1643.

ABOUT this time took place the league of perpetual confederacy between the colonies of Massachusetts, Plymouth, Connecticut and New-Haven. The idea of this union is stated to have been "familiar to several leading men in the colonies, as it was framed in imitation of the famous bond of union among the Dutch provinces, in whose dominions the Brownists had long resided." It was stipulated, that the confederates should henceforth be distinguished by the name of the United Colonies of New-England ; that each shall remain se-

parate and distinct, and have exclusive jurisdiction within its own territory ; that in every war, offensive and defensive, each of the confederates should furnish its quota of men, provisions and money, at a rate fixed from time to time, in proportion to the number of people in each settlement ; that an assembly, composed of two commissioners from each colony, shall be held annually, with power to deliberate and decide on all points of common concern to the confederacy ; and every determination in which six of their number shall concur, shall be binding on the whole.

THIS transaction, whose example was afterwards adopted by all the colonies, and which became the instrument of effecting one of the most extraordinary revolutions recorded in history, although it seemed to bespeak an authority sovereign and independent, was passed over by the governing party in England, occupied in weightier and more extensive projects than the concerns of remote colonies. The religious opinion of the confederates moreover, strongly pleaded in their behalf. They were puritans in the strictest sense of the term, and it was considered impolitic and ungodly by the parliament, to scan too nicely the conduct of men whose tenets and religious forms so perfectly coincided with their own ; tenets and forms, deemed essential to human salvation, and the glory and honor of the deity. In return for this indulgence, the people of New-England breathed their wishes and prayers for the success of the republic, which faithfully reflected the image of their own civil and ecclesiastical establishments.

CONNECTICUT and New-Haven, together with Rhode-Island and Providence plantations, were founded by emigrants from Massachusetts, between the years thirty-five and thirty-seven : But

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1645.

Govern-

ment admi-

the name of
the king.

of these we shall have to speak more fully when I come to treat of the French and English colonies.

FROM this time to the surrender of Virginia to the commonwealth, there is little deserving remembrance. Deprived of her supplies; and her nistered in trade being interrupted by the civil war, she learned to depend less on others, and more on herself. If little during this time was added to her riches, she lost nothing by rapacity or tyranny; and more attention was paid to those internal sources of wealth, which, though they add little to the splendor of a nation, constitute its best defence and happiness. Unable from her situation to take an active part in the disputes which agitated the mother country, Virginia saw the death of the king, the dispersion of his family, and the abolition of royalty, with feelings of regret not unmixed with wonder, at the boldness and novelty of their proceedings: But it does not appear that she took any step to open an intercourse with the royal party, or that she extended any consolation or succor to the distresses of the exiled family. She forbore indeed to acknowledge the present government: But this might have been the effect of caution and reserve. It was not impossible the royal authority would be soon restored; it was indeed difficult to believe, that a government, which had lasted for ages; and whose origin was supposed to be little short of divine, should in a moment, as it were, be dissolved and melt away, before the tumultuous and capricious proceedings of a violent, and ill-concerted rebellion.

1649.

DURING the whole of the civil war, the government continued to be administered in the name of the king: But this unfortunate prince having at length fallen a sacrifice to the just resentment of the people, the time approached when Virginia was about to submit to the general fate; a fate,

which, saving her prejudices, could make but small alteration in her circumstances.

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II.

1649.

It is difficult to read Hume's account of the principal events of the reign of Charles I. without feelings of disappointment and indignation. With what lightness does he touch the public grievances and oppressions : With what casuistry does he attempt to gloss the wicked and tyrannical measures of the court. How cold and impartial and inanimate is his portrait of the brave and generous Hambden : What a morbid sensibility does he display for the fate of a weak and faithless tyrant.

This portion of English history affords a theme so noble and interesting, that little beside a warm heart and an ordinary capacity, were wanting to make it kindle into excellence. Through all the changes of their manners, notwithstanding they often affect to dislike its catastrophe, the English look on this period as deservedly the most boasted chapter in their history. They fondly point to it as the most conspicuous instance amongst several others, of their love of liberty and resistance to tyrants ; and succeeding patriots have held it up as a dread warning to the oppressor, and a wholesome lesson to the oppressed. Yet this historian, from whose genius so much was to be expected, instead of catching the noble ardor from his subject, pallies and sicklies it by cold-blooded reflections, wearing the garb of wisdom, but nothing of her ethereal truth or spirit.

THERE is unfortunately a sort of theatrical interest excited by the picture of fallen greatness, which too frequently misleads the historian. Almost all the ancient and modern tragedies have been constructed on this false and unnatural principle. Till very lately, the picture of humble distresses and simple virtues, has not been thought

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1649.

Parliament
turn their at-
tention to
the colonies

Ordinance
of 1651.

sufficiently dignified to be introduced on the stage.

MR. Hume should have disdained to have administered to a false taste, by following this example. The young Virginian will find an admirable antidote for the poison of this writer's opinions, in the account of the same period, by mrs. M'Cawley, whose narrative possesses all those requisites in which Hume is deficient, added to a glowing and animated style, sound principles, and reflections at once natural and unsophisticated.

THE parliament having succeeded in establishing their authority in England, began to turn their attention to the remote dependencies of the empire. They beheld with indignation the various colonies, which had been established at the national cost, either disclaiming their authority, or exercising a real independence. It was considered as a crime amounting to treason, to resist a power, to whose decisions the nation bowed, and whose cause had been sanctioned by successes; and their crime was aggravated by their presumption and ingratitude: The attachment too, of the colonies to the royal cause, now fallen into dispute and contempt, was an evidence of a base and besotted spirit, which, in their opinion, could scarcely be punished with too much severity.

In this temper, an ordinance was issued, declaring that as the colonies had been settled at the cost, and by the people, of England, they are and of right ought to be, subordinate to and dependent on the English commonwealth, and subject to such laws and regulations, as are and shall be made by parliament; that in those places the powers of government had been usurped by persons, who had set themselves up in opposition to the commonwealth; who were therefore denounced as notorious traitors and rebels; and not only the

ships of England, but those also belonging to any foreign nation, were forbidden to enter the ports of any of the British settlements in America.

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1651.

THIS ordinance was immediately followed up by measures more suitable to the temper and character of the commonwealth, than mere declarations.

A POWERFUL fleet, having on board a considerable body of land forces, was dispatched under the command of sir G. Aiskew, to force the colonies to their allegiance.* This armament having reduced Barbadoes and Antigua, made its appearance at length in the bay of Chesapeake, and summoned the colony to surrender.

Sir G. Ais -
kew sent to
reduce the
colonies.

IT was fortunate for sir W. Berkeley, that the long duration of the troubles in England, afforded him time to prepare for this invasion. The reputation of Virginia for loyalty, had induced a number of the cavaliers to take refuge there, on the death of the king, and the dispersion of their party: And these had contributed to fan the flame of loyalty among the planters, by their pathetic and spirited descriptions of the misfortunes and virtues of the royal martyr, and the cruelty, profaneness and hypocrisy of his enemies. The population of the colony too, owing to a long peace and the troubled state of the mother country, amounting to twenty thousand† souls, could furnish a respectable force against any emergence.

THOSE means, small if compared with the power of the enemy, sir William Berkeley, with a gallant conduct of sir W. Berkeley.

* Beverley states, that the squadron which entered the Chesapeake, was commanded by captain Dennis. He may possibly have been dispatched with a part of the fleet, after the reduction of Barbadoes.

† Robertson—Chalmers.

CHAP. II. Iantry deserving a better cause, undertook to organize against the threatened invasion, of which he had timely notice, by the declarations of parliament, and the sailing of the expedition ; and when the troops of the commonwealth appeared before James-Town, they were astonished to find, instead of the immediate and dutiful submission they expected, an absolute rejection of their summons, accompanied by such ample means of defence, as they were unable to reconcile with the recent establishment, and reputed weakness of the colony.

It happened too, that at the moment the forces of the commonwealth made their appearance in the Chesapeake, there were several Dutch* ships lying off James-Town ; and as the trade with the colonies, contrary to the declared interdiction of parliament, was attended with considerable danger, the ships engaged in this service were careful to guard against the worst, by mounting cannon, and by a sufficient supply of small arms and ammunition.

THE commanders and crews of these vessels, saw immediately all they had to apprehend from this invasion. Not only their cargoes and private adventures would become the prey of the conquerors ; but themselves would be dragged into captivity, and possibly condemned as pirates before the partial tribunals of the commonwealth.

IT was not difficult to persuade men so circumstanced, what part it became them to act. The cargoes of the ships were immediately taken on shore : They were filled with men, and moored in the most convenient manner, close in with the island, with their broadsides towards the enemy.

* Ancient Records.

1651.

This line was supported by several pieces of ordnance, disposed in the most convenient situations for annoying an invading enemy; and these again were flanked by a choice body of troops, inured to labor in the Indian wars, and commanded by the governor in person: who almost as far as the eye could reach, covered the eminences that overlooked the river and the creek, whose waters formed the peninsula.

THE leaders of the parliament were staggered by a military display so unexpected and formidable. Their provision and stores had experienced a considerable diminution, and the health and spirits of the troops, had suffered by the fatigues they had undergone during a long voyage, and the spirited resistance of Barbadoes :* And now when they hoped to enjoy a repose after their labors, with the glory of having completed the objects of the expedition, their prospect was clouded by new and alarming difficulties.

IN this dilemma, the proud spirit of the commonwealth condescended to stoop to accommodation; and various overtures were made with the view of disarming the vigilance, and palsying the ardor of the colonists. These negotiations were carried on by means of flags of truce; and a sort of friendly intercourse was tolerated rather than licenced, during the pauses of hostilities, by both parties; who, notwithstanding the shades of political difference, could not help regarding each other as brothers and countrymen. By this intercourse, the circumstances and dispositions of the colony became better understood; and it is not to be wondered at, if amongst a community so high spirited and independent as that of Virginia, there

* Commanded by lord Willoughby.

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should have been found men ready to admire the doctrines of a revolution so sublime in its spirit and tendency, although afterwards so abused and betraycd by its false and hypocritical professors.

WE are informed that motives of a nature less honorable, had their share in effecting an accommodation.

THERE was on board the English fleet, a considerable quantity of goods belonging to two members of the council, of which the British general took care to give those men timely intimation. They were at the same time given to understand, that the loss or restoration of the articles in question, rested entirely on the part they should adopt in discussing the proposed accommodation. The conditions were perfectly understood; and from this moment a division arose in the council, which by perplexing the deliberations, and alarming the fears of that body, destroyed the concert essential to a spirited defence.*

SUCH is the statement of Beverley, who, notwithstanding his manner is in general spiritless and uninteresting, appears to have possessed better sources of information than any of the historians of Virginia. But if there was in reality any such transaction, he has certainly ascribed too much importance to its agency and operation. Had the colony been as loyal and united as it is pretended it was, it is scarcely credible that two men should all at once have effected a change so sudden and extraordinary. A considerable division of sentiment certainly existed in the colony; but it should be ascribed to the influence of several causes; and there is nothing so improbable in the supposition, that the spirit of reform so prevalent throughout the empire, had a considerable share

* Beverley.

in producing it. It was conceived too by the prudent men of both parties, to be little removed from insanity to prolong a resistance, which in the end must be hopeless, and which, the longer it was protracted, would diminish the prospect of favorable terms.

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IT is not easy to discover whether the great preparations of the governor, and his gallant defence, had their rise in an expectation of being able to repel the invasion, or in the hope of extorting favorable terms for the surrender of the colony. In either case his gallantry entitles him to just commendation. Although his influence was not sufficient to prevent an accommodation, he found little difficulty in uniting all parties in the resolution to insist on terms the most honorable and liberal. These terms having been previously digested, in a grand assembly of the governor, counsellors and burgesses, were immediately dispatched to the British general, accompanied by a solemn declaration, that unless they were acceded to in the most absolute and literal sense, without alteration or qualification, the colonists were ready to suffer the last extremities rather than submit.

THE British commander willingly acceded to the terms; and the following articles of capitulation were ratified with the usual formalities:... Colony ca-

"ARTICLES for the surrendering of Virginia to the subjection of the parliament of the commonwealth of England, agreed upon by the honorable the commissioners of parliament, and the honorable the council of state :... pitulates.

"FIRST...That neither governor nor council shall be obliged to take the oath nor engagements to the commonwealth of England for one whole year, and that neither governor nor council be censured for praying for or speaking well of the

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king for one whole year in their private houses and neighborly conference.

“ 2DLY... That there be one sent home at the present governor’s choice, to give an account to his majesty of the surrender of this country, this present governor bearing this charge, which is sir William Berkeley.

“ 3DLY... That the present governor, (that is sir William Berkeley) and the council, shall have leave to sell and dispose of their estates, and transport themselves whither they please.

“ 4THLY... That the governor and council, tho’ they do not take the engagement for one whole year, shall yet have equal free justice in all the courts of Virginia, until the expiration of one whole year.

“ 5THLY... That all the governor’s and council’s lands and houses, and whatever belongs to them, be particularly secured and provided for in these articles.

“ 6THLY... That all debts due to the governor by act of assembly, and all debts due to the officers made by the assembly, be perfectly made good to them; and that the governor be paid out of the goods remaining in the colony of the Dutch ship that went away clear for Holland, without paying his customs.

“ 7THLY... That the governor may have free leave to hire a ship in England or Holland, to carry away the governor’s goods and the council’s, and what he or they have to transfer to England or Holland, without any let in any of the state’s ports, or any molestation by any of the said ships at sea, or in any of their rivers or elsewhere, or by any ships in the commonwealth of England whatsoever.

“ 8THLY... That the captain of the fort be allowed satisfaction for building his house in the Fort island.

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“ 9THLY... That all persons that are now in this colony, of what condition or quality soever, that have served the king here or in England, shall be free from all dangers and punishments whatever; and this article, as all other articles, to be in as clear terms, as the learned in the law of terms can express.

“ 10THLY... That the same instant the commissions are resigned, an act of oblivion and indemnity* be issued out under the hands and seals of the

* An act of indemnity made att the surrender of the countrey.

Whereas by the authoritie of the parliament wee the commissioners appointed by the councill of state authorised thereto, having brought a fleete and force into James cittie in Virginia to reduce that colonie under the obedience of the commonwealth of England, and findeing force raised by the governour and countrey to make opposition against the said fleete whereby assured danger appearinge of the ruine and destruction of the plantation, for prevention whereof the burgesses of all the several plantations being called to advise and assist therein, upon long and serious debate, and in sad contemplation of the great miseries and certaine destruction which were soneerely hovering over the whole countrey: Wee the said commissioners have thought fit and condescended and granted to signe and confirme under our hands, seales and by our oath, articles bearinge date with theise presents, and do further declare that by the authoritie of the parliament and commonwealth of England derived unto us their commissioners, that according the articles in generall wee have granted an act of indemnity and oblivion to all the inhabitants of this coloney from all words, actions, or writings that have been spoken, acted or writt against the parliament or commonwealth of England or any other person from the beginning of the world to this daye. And this wee have done that all the inhabitants of the collonie may live quietly and securely under the commonwealth of England. And wee do promise that the parliament and commonwealth of England shall confirm and make good all those transactions of ours. Wittnes our hands and seales this 12th of March 1651. Richard Bennett—Seale. William Chalborne—Seale. Edm. Curtis—Seale.

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commissioners for the parliament, and that no person in any court of justice in Virginia, be questioned for the opinions given in any court determined by them.

“ **I**THLY... That the governor and council shall have their passes to go away from hence in any ship within a year ; and in case they go for London or other places in England, that they or any one of them shall be free from any trouble or hindrance of——or such like in England, that they may follow their occasions for the space of six months after their arrival.

“ **T**HESSE articles are now sealed and sworn unto us by the commissioners for the parliament of the commonwealth of England, March 12, 1651.”

“ **A**RTICLES agreed on and concluded at James-Cittie in Virginia for the surrendering and settling of the plantation under the obedience and government of the common wealth of England by the commissioners of the council of state, by authority of the parliament of England and by the grand assembly of the governour, council and burgesses of that countrey.

“ **F**IRST, it is agreed and insisted that the plantation of Virginia, and all the inhabitants thereof shall be and remain in due obedience and subjection to the commonwealth of England, according to the laws there established, and that this submission and subscription bee acknowledged a voluntary act, not forced nor constrained by a conquest upon the countrey, and that they shall have and enjoy such freedoms and privileges as belong to the free borne people of Englaud, and that the former government by the commissions and instructions be void and null.

“ **2**LY, secondly, that the grand assembly as formerly shall convene and transact the affairs of Virginia wherein nothing is to be acted or done

contrarie to the government of the common wealth
of England and the lawes there established.

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“ 3LY, That there shall be a full and totall remission and indemnitie of all acts, words or writings done or spoken against the parliament of England in relation to the same.

“ 4LY, That Virginia shall have and enjoy the antient bounds and limitts granted by the charters of the former kings, and that we shall seek a new charter from the parliament to that purpose against any that intrencht upon the rights thereof.

“ 5LY, That all the pattents of land granted under the colony seal by any of the precedent governors shall be and remaine in full force and strength.

“ 6LY, That the priviledge of haveing fiftie acres of land for every person transported in that collonie shall continue as formerly granted.

“ 7LY, That the people of Virginia have free trade as the people of England do enjoy to all places and with all nations according to the lawes of that common wealth, and that Virginia shall enjoy priviledges equall to the English plantations in America.

“ 8LY, That Virginia shall be free from all taxes, customs and impositions whatsoever, and none to be imposed on them without consent of the grand assembly, and soe that neither florts nor castles bee erected or garrisons maintained without their consent.

“ 9LY, That noe charge shall be required from this country in respect to this present fleet.

“ 10LY, That for the future settlement of the countrey in their due obedience, the engagement shall be tendered to all the inhabitants according to act of parliament made to that purpose, that all persons who shall refuse to subscribe the said en-

CHAP. gagement, shall have a yeare's time if they please
II. to remove themselves and their estates out of Vir-
1651. ginia, and in the mean time during the said yeare
 to have equall justice as formerly.

“ 11LY, That the use of the book of common
 prayer shall be permitted for one year ensuing
 with referrence to the consent of the major part of
 the parishes, provided that those which relate to
 kingshipp or that government be not used pub-
 liquely, and the continuance of ministers in their
 places, they not misdemeaning themselves, and
 the payment of their accustomed dues and agree-
 ments made with them respectively, shall be left
 as they now stand dureing this ensuing yeare.

“ 12LY, That no man's cattell shall be ques-
 tioned as the companies, unless such as have been
 entrusted with them or have disposed of them
 without order.

“ 13LY, That all ammunition, powder and armes,
 other than for private use, shall be delivered up,
 securitie being given to make satisfaction for it.

“ 14LY, That all goods alreadie brought hither
 by the Dutch or others which are now on shoar,
 shall be free from surprizall.

“ 15LY, That the quairents granted unto us by
 the late kinge for seven yeares bee confirmed.

“ 16LY, That the commissioners for the parlia-
 ment subscribeing these articles engage them-
 selves and the honor of parliament for the full per-
 formance thereof: And that the present gover-
 nor and the councill and the burgesses do like-
 wise subscribe and engage the whole collonie on
 their parts.

“ RICHARD BENNETT, (Seale.)

“ WM. CLAIBORNE, (Seale.)

“ EDMUND CURTIS, (Seale.)

“ THEISE articles were signed and sealed by
 the commissioners of the councill of state for the

common wealth of England, the twelveth day of CHAP.
March, 1651." II.

THESE terms, the most liberal and ample that ever were procured under similar circumstances, will remain an honorable and lasting record of the spirit and intelligence of Virginia. It will be seen, that the former privileges were secured, and that new and important advantages were acquired by this capitulation. Private property, and the sacred right of speech and opinion were guarded by express and pointed stipulations, as well as free trade with all nations, so contrary to the former policy of England; an exemption from all customs, taxes, or imposts, castles, forts, or garrisons, but by the consent of their own representatives, was urged with equal success and admitted. The articles relating to the Dutch allies and the cavaliers, breath the very spirit of military honor and good faith. The persons and property of these men, so obnoxious to the parliamentary leaders, the one by the late assistance to the colony, the other, by their attachment to royalty, and their rebellion against their authority, were declared to be free from seizure or examination; and full time was allowed them to dispose of their estates, and leave the colony....Nor was sir William Berkeley forgotten on this occasion.

AT first view, this appears rather like a contract between two sovereign and independent states, than the return of a revolted colony to its allegiance; and what is equally remarkable, all the conditions are drawn decidedly in favor of the colony. They profess indeed, a nominal dependence on the parent state; but in lieu of these empty professions, which cost them nothing, they acquired a real and substantial independence; and they insisted, that this submission should not be considered as effected by force, or founded in conquest;

CHAP. II. but was on their part purely voluntary and unconstrained.

1651. THESE articles of capitulation, agreed and entered into between the commissioners of parliament and the council of state, do not embrace the noble and enlarged views of the grand assembly : They do not stipulate for the absolute security of their ancient rights ; or the free use of their religion ; much less do they attempt to force from the enemy any new immunities or privileges for the great body of the people. Their stipulations are of a nature almost entirely personal, and are strictly consonant to the spirit of aristocracy, and the proud pretensions of a privileged order. Yet notwithstanding this partial and selfish policy, they exhibit a spirit and resolution, which were never exceeded, and they even go beyond the assembly in securing the rights and privileges of their own body.

THESE two separate sets of articles exhibit perhaps the finest contrast which is to be found in history between the selfish and churlish policy of aristocracy, and the enlarged and liberal spirit of popular government ; and they are inserted entire, changing only the order in which they stand in the records of the colony. They are of the same dates ; and no mention is made which of the papers is first in the order of time. There is however internal evidence that the articles of capitulation between the commissioners and the grand assembly received the last formal and final and definitive ratification ; those between the commissioners and council being merely preliminary arrangements. Under this impression, these papers appear in what is conceived their natural order.*

* These articles prove, that Robertson mistakes when he

VIRGINIA having thus passed out of the hands of a royal government, experienced a sort of interregnum, during which time the commissioners of parliament and the general assembly were engaged in deliberating on the plan of a provisional government, until regular appointments of governor and counsellors should be made by the council of state in England. The governor and the greater part of the old council, disgusted with the new order of things, had retired to their estates in the country, until an opportunity should offer of transporting themselves and their property to some other country, out of the sight and beyond the control of a successful but detestable usurpation. Secured by the act of indemnity ; and possessing the respect of the people, they experienced none of the mortifications, which follow so violent a reverse of fortune. The commissioners with the advice of the assembly, administered the government according to former precedents ; whilst the letter and spirit of the capitulation were observed with a sincerity and good faith, which set at ease all fears and suspicions.

SUCH is the influence of habit, that the forms and names of their institutions, were impatiently desired ; and in the following year, no provision having been as yet made by the commonwealth for establishing a government,* it was unanimous-

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II.

1651.

A sort of in-
terregnum.April 20,
1652.

says that sir William Berkeley disdained to make any stipulations for himself.

* *James-City, April 30, 1652.*

AT THE GRAND ASSEMBLY.—After long and serious debate and advice for the settling of the government of Virginia, it was unanimously voted and concluded by the commissioners appointed by the authority of parliament and by all the burgesses of the several counties and places respectively, until the farther pleasure of the states be known,

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II.

1652.

Richard
Bennett go-
vern.

ly concluded at an assembly composed of the commissioners and burgesses of the several counties sitting at James-Town, that Richard Bennett should be governor during a year, or until the pleasure of the council of state should be known. Captain William Claiborne was appointed secretary of state; and a council of thirteen was added, to assist by their advice in the administration of government. But so cautious and jealous were the representatives in delegating this brief authority, that the new servants were expressly commanded "to act from time to time, and to have such powers and authorities as by the grand assembly shall be appointed and granted to their several places."

THE territory of Virginia was at this time laid

that Mr. Richard Bennett, esq. be governor for the ensuing year, or until the next meeting of the assembly, with all the just powers and authorities that may belong to the place lawfully. And likewise that colonel William Claiborne be secretary of state, with all belonging to that office, and is to be next in place to the governor, next that of the council of state, be as follows, (viz.) captain John West, colonel Samuel Matthews, colonel Mathew Littleton, colonel Argill Yeardley, colonel Thomas Pettus, colonel Humphrey Riggins, colonel George Ludlow, colonel William Barnett, captain Benjamin Freeman, captain Thomas Harwood, major William Taylor, captain Francis Eppes, and lieutenant colonel Cheesman; and they shall have power to execute and do equal justice to all the people and inhabitants of this colony, according to such instruction as they have or shall receive from the parliament of England, and according to the known law of England, and the acts of assembly here established: And the said governor, secretary and council of state, are to have such power and authorities, and to act from time to time as by the grand assembly shall be appointed and granted to their several places respectively for the time aforesaid, of which all the people which inhabit or be in this country, are required hereby to take notice, and accordingly conform themselves thereto.

God save the commonwealth of England and this country of Virginia.

off in thirteen* counties, which sent thirty-five members of the general assembly, independent of Lancaster, whose representation is not set down.

In the following year the number of counties was increased to fourteen, and the representatives to thirty-four, including Lancaster, which sent two members.

DURING the session of assembly, a slight variance took place between the governor and council and the house of burgesses, respecting the choice of a speaker:† But this disagreement had

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11.

1652.

Number of
burgesses.

1653.

Slight vari-
ance be-
tween gover-
nor and as-
sembly.

* Names of counties and number of burgesses returned to the grand assembly, in 1652.

For Henrico county,	1	For Warwick county,	2
Charles-City county,	2	York county,	3
James-City county,	6	Northampton county,	5
Isle-of-Wight county,	4	Northumberland coun-	-
Nansemond county,	2	ty,	2
Lower Norfolk county	4	Gloucester county,	2
Elizabeth-City county	2	Lancaster county.	

The oath administered to the burgesses.

You and every of you shall swear upon the Holy Evangelists and in the sight of God, to deliver your opinions faithfully and honestly, according to your best understanding and conscience, for the general good and prosperity of this country, and every particular member thereof; and to do your utmost endeavors to prosecute that without mingling with it any particular interest of any person or persons whatsoever.

JOHN CORKER, Clk. B. H.

† Number of the burgesses for the general plantations, January 5, 1653.

James-City,	4	Isle-of-Wight,	3
Surry,	2	Northampton,	3
Warwick,	2	Lancaster,	2
Charles-City,	2	York,	4
Nansemond,	3	Northumberland,	2
Lower Norfolk,	2	Henrico,	1
Gloucester,	2	Elizabeth-City.	2

‡ Not to encroach upon the right of assemblies in the free choice of a speaker, nor to undervalue lieutenant colonel

CHAP. its rise in sentiments of general propriety, and
II. was wholly uninfluenced by any party considera-
1653. tion. On the other hand, it appears that the go-
 vernor was considered as the friend of Virginia,
 and possessed in a high degree the public confi-
 dence and respect. Two instances are recorded
 in support of this fact: Edward Gunnell and
 Abraham Read, for disrespectful language con-
 cerning him, were punished in heavy fines by the
 assembly. From the case of Read, another im-
 portant fact is collected. The act of parliament
 mentioned by all historians of Virginia, which
 prohibited all trade between the colony and fo-
 reigners, was either not received or was disre-
 garded as repugnant to the convention of 1651.
 One of the charges against Read was, that he had
 injuriously uttered in discourse, " that no fo-
 reigners ought to have trade in Virginia, which
 is contrary to an act of parliament for the encrease
 of navigation, and the articles granted upon the
 surrender of the colony to the obedience of the
 parliament."

By this it would appear, that the colony did
 found their rights to a free trade, not only on the
 capitulation of 1651, but on the act of navigation
 itself. It is not easy to conceive by what logic

Chiles, but only by way of advice, it is my opinion, the
 council concurring therein, that it is not so proper nor so
 convenient to make choice of him, for there is something to
 be agitated in this assembly concerning a ship lately arrived
 in which lieutenant colonel Chiles has some interest, for
 which, and some other reasons, we conceive it better at
 present to make choice of some other person among you,
 whom you shall agree on.

Your real servant,

RICHARD BENNETT.

Such was the friendly and respectful style in which the
 republican governors addressed assemblies.

they could have reasoned themselves into such a construction of this act: They certainly however acted on this opinion.

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II.
1651.

BUT a single case is preserved on the records where the penalties for the prohibited trade were attempted to be enforced; and this is not entirely satisfactory, inasmuch as the parliament were at war with the country of the parties trading. The decision of the assembly on this case is given.

“ WHEREAS the ship Leopoldus of Dunkirk, hath by the grand assembly of this country been adjudged forfeit, and accordingly confiscated according to the act of parliament for increase of navigation: Now know all men to whom these presents shall come, that we the subscribers by authority of the said assembly, do for and in consideration of the sum of four hundred pounds sterling, paid by lieutenant colonel Walter Chiles, of this colony, for the use of this colony before the sealing and delivery thereof, acquit and discharge him, give, grant, bargain, sell, assign, and set over the said ship Leopoldus, about the burthen of 300 tuns, with her guns, tackle, apparel, and furniture, whatsoever belongeth or appertaineth to the said ship, unto the said lieutenant colonel Chiles, his heirs and assigns forever; to have and to hold the said ship, with all her said guns, tackle, and furniture, to him the said Walter Chiles, his heirs and assigns forever, without any let, hindrance, molestation, or disturbance of any person or persons whatsoever, claiming any right, title or interest to the said ship in behalf of this colony, or the commonwealth of England, we hereby in the behalf of the grand assembly warranting the same unto the said lieutenant colonel Walter Chiles, his heirs, executors, administrators, and assigns. In witness whereof, we have

N

CHAP. hereunto set our hands and seals, and caused this
II. our act to be registered in the records of this colony
1653. of Virginia, this 12th July, 1653.

“ RICH'D. BENNETT, (seal.)
 “ W.M. WHITBY, Speaker of
 House of Burgesses.

In presentia mea,

“ W.M. CLAYBORN, Sec'ry.

“ GEORGE FLETCHER,

“ ROBERT HUBARD.

“ JOHN CORKER, Clerk to the Burgesses.”

IT appears at this time that the English settlements, owing to the rapid increase of population, extended close to the Indian frontier, and it happened not unfrequently in the same county, that the institutions of social life, and the rude customs of the savage state, were in operation at the same time. But although the Virginians and Indians appeared at first view as members of the same community, no two people could be more separate and removed from each other.

THE Indians after the loss of Opechancanough, unable to connect the links in the federative chain, which used to give concert to their operations, felt the hopelessness of war with enemies so superior; and in the payment of a few wolf or beaver skins as a tribute, they submitted to the shadow of submission: subject to a few general regulations of mere police, in every thing else they were absolutely independent, and their affairs were managed by their chiefs and elders, according to their ancient customs. They disdained to submit to the restraints and curbs of established government, and they could not help despising the English, notwithstanding their superior knowledge and improvements, for their tame acquiescence under regulations, in their estimation, fitted only for slaves.

Indians.

It is pleasing to record the conduct of the Virginians at this period to this interesting people. Their fears which used to put in motion the selfish and malignant passions, had nearly subsided, and their minds once open to the operation of cool and honest reflection, they felt the justice and humanity of rendering their condition easy and secure. They were the natural lords and proprietors of the soil, and it appeared at once repugnant to the doctrines of their religion and the principles of justice and humanity, to extirpate a race, whose only fault was their veneration for their ancient customs, and their unconquerable attachment to their independence.

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In this spirit an act of assembly was passed assigning and securing such lands on York river, as he should make choice of, to Totopotomoi, the successor of Opechancanough; and captain John West and colonel William Hockradine were appointed to conduct this chief and his Indians in safety to James-Town, where the principles of the treaty were to be adjusted, and to convoy them back in safety.* It was enacted at the same time that the commissioners of York and Lancaster counties, should immediately proportion among the Indians living in those counties, the several tracts assigned them by the act, and that they should lay off and assign such places and bounds to hunt in, as were most convenient at once for the Indians and the inhabitants.†

Humane regulations in their favor.

Owing to the war between the Provinces of Holland and the Protector, sir William Berkeley had not yet been able to depart from Virginia, in conformity with the convention of 1651, and he became therefore subject to the danger of arrest or transportation. To remove his apprehensions

* Ancient records.

† *Ibidem.*

CHAP.
II.

1653

Act of assembly in favor of sir W Berkeley.

on this head, an act was passed by the general assembly, stating, "that as the war between England and Holland had prevented the confirmation of the convention of 1651 in England, or the coming of a ship out of Holland; and the said William Berkeley desires a longer time, viz. eight months from the date hereof, to procure a ship out of Flanders, in respect of the war with Holland, and that he be custom free for such tobacco as he shall lade in her, it is condescended that his said request shall be granted."*

THE conduct of a governor and council decidedly attached to a commonwealth, can scarcely be too highly admired on this occasion. Perhaps it is not too much to say, that no incident during the existence of the civil war, was marked so strongly with generosity and good faith. The house of burgesses in passing this act had doubtless in view the memory of his former mild administration and engaging manners, and many of them were possibly still attached to the royal cause: But this conduct of the governor and council can be ascribed only to the greatest moderation, humanity and generosity.

1654.
Edw. Digges called to the council.

THIS year Edward Digges was called to the council† by the governor during the recess, and

* Ancient records.

† A literal transcript from the records.

The governor has thought fit to call Edward Digges to be one of the council, if the assembly shall like thereof, and signify their approbation and concurrence therein.

RICHARD BENNETT.

November 22d, 1654.

It is unanimously consented unto, he having given a signal testimony of his fidelity to the colony, and the commonwealth of England.

CHARLES NORWOOD, Clerk of Assembly.

1654.

the appointment was confirmed by the assembly. It would seem from this and several other circumstances, that Virginia, under the authority of the commonwealth, enjoyed a government almost entirely republican. The governor and council of state were chosen by the assembly. It appears too in the case of Digges, that vacancies supplied during the recess, required the sanction or confirmation of that body.... This mode of proceeding continued to the last moments of the commonwealth's authority; and so familiar were the people with the spirit and habits of freedom, that no evil resulted from this extension of popular privilege. On the contrary, the most profound tranquility, with the exception of a single riot in the county of Northampton, prevailed throughout the colony.*

An order of assembly† was made this year commanding a levy in the counties of Lancaster, Northumberland, and Westmoreland, for the purpose of repelling the aggressions and inroads of the Rappahannock Indians. This expedition, the charges of which were to be borne by these counties, marched under the conduct of general Carter, to the Rappahannock towns. In obedience to the order of the assembly, an attempt was first

Inroads of
Rappahannock Indians.

* Ancient records.

† November 20th, 1654.—At an assembly held at James-City, the number of the burgesses for each respective county, as followeth:

Charles-City,	4	Elizabeth-City,	2
Gloucester,	2	Henrico,	1
James-City,	4	Isle-of-Wight,	4
Lower Norfolk,	2	Lancaster,	2
Northampton,	3	Nansemond,	8
Northumberland,	1	Surrey,	2
Warwick,	2	Westmoreland,	2
York,	8	New-Kent,	1

The public levy this assembly laid as followeth: Westmoreland, Dr. 170 tithables, at 26 per poll, is 4420, &c.

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made by means of interpreters, to procure satisfaction on peaceable terms. No account has been transmitted us of the effect of those overtures, or of any subsequent particulars of the expedition. But in the following year, the name of Rappahan-nock appears on the list of American counties. The inference is plain. These Indians, with the untameable spirit which distinguishes this race, combated as long as they were able against the superior discipline and combinations of their enemies, and were at last forced to retire. The emigration at first was in all probability, not general: For even in the hunter state, there are individuals and families with social feelings and local prejudices. With respect to the Indians, this observation is certainly correct; for to the very last, even after the considerable tribes had retired westwardly, several families, and even tribes, lingered with mournful pleasure about the tombs of their fathers; and in many, so powerful was the force of this sentiment, that in defiance of the habits of their life, and the maxims of their policy, they determined to remain and die on the spot where they were born.

Edward Diggles go-
vernor.

To hasten as much as possible the emigration of this people, the commissioners of counties were authorised to treat with them for the sale of their lands; and it should not be omitted, that they were strictly enjoined to proceed with justice, and to procure the consent of the majority of the towns or tribes: But it was found after a short experiment, that the carelessness and simplicity of this people, were no match for the fraudulent cunning of land speculators; and it was declared that no alienation of their lands should in future be considered legal, unless sanctioned by an assembly. Several other measures were adopted in the same humane and beneficent spirit, for improving the

moral condition of this people. With this view it was conceived necessary, as a previous step, to withdraw them from the hunter state, and engage them in the more social and comfortable pursuit of tillage and husbandry. A cow was fixed upon as the price of every eight wolves' heads* which were brought to the commissioners; and they were invited to bring in their children as hostages, under a solemn assurance, that they

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* For every eight wolves' heads brought in by the Indians, the king or great man (as they call him) shall have a cow delivered him at the charge of the public. This will be a step to civilize them, and to making them christians. Besides it will certainly make the commanding Indians watch over their own men, that they do us no injuries, knowing that by their default, they may be in danger of losing their estates. Therefore be it enacted as aforesaid, only with this exception, that Accomack shall pay for no more than what are killed in their own county.

If the Indians shall bring in any children as gages of their good and quiet intentions to us, and amity with us, then the parents of such children shall choose the persons to whom the care of such children shall be intrusted, and the country by us their representatives do engage, that we will not use them as slaves, but do their best to bring them up in christianity, civility, and the knowledge of necessary trades. And on the report of the commissioners of each respective country, that those under whose tuition they are, do really intend the bettering of the children in those particulars, then a salary shall be allowed to such men as deserve and require it.— What lands the Indians shall be possessed of, by order of this or other ensuing assembly, such land shall not be alienable by them the Indians, to any man de futuro. For this will put us to a continual necessity of allotting them new lands and possessions, and they will be always insecure of what they held, not being able to distinguish between our desires to buy, or enforcement to have in any case their grants and sales be desired: Therefore be it enacted, that for the future no such alienations or bargains and sales be valid, without the assent of the assembly. This act not to prejudice any christian who hath land already granted by patent.

CHAP. should be carefully instructed in the knowledge
II. of useful and mechanic arts, and in particular,
1654. that they should not be made slaves.

BUT these measures were rendered abortive by their aversion to labor, and their utter carelessness and contempt of property. War and hunting were the chief employments of their life, and the sources of their amusement and glory. When their enemies were vanquished, and a sufficient supply was procured by a successful expedition, or by the bounty of nature, they resigned themselves wholly to the gratifications of sense. To descend from the station of manly toil and honorable indolence, to the drudgery of agriculture, where their labors would be severe, unremitting, and inglorious; when they could no longer hear the hoarse and warlike notes of the warhoop, the shouts of their warriors, and the congratulations of their women, was at once so much at war with their feelings and judgment, that no inducement existed strong enough to effect such a revolution in their habits and character.

Irruption of Rechahecri ans. WHILST the assembly were employed in these wise and benevolent projects, information was received that a body of inland or mountain Indians, to the number of six or seven hundred, had seated themselves near the falls of James river, apparently with the intention of forming a regular settlement. Some movements were at this time noticed among the neighboring tribes, which seemed to indicate something like a concert and correspondence with these strangers; and the minds of the colonists always alive to, and apprehensive of, Indian treachery, were unusually agitated on this occasion. The place these Indians had made choice of, was another source of disquiet. It was strong and difficult of access, alike calculated for offensive and defensive ope-

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rations; and they recollect the immense trouble and expence that had been incurred in extirpating the tribes which formerly dwelt in that place. At the conclusion of the last peace with the Indians, this station was considered so important, that its cession was insisted on, as the main pledge and security of peace; and it had hitherto continued unoccupied as a sort of barrier to the frontiers in that direction. Under all these circumstances, they could not see it, without anxiety, occupied by a powerful band of hardy warriors, who perhaps were only the advance guard of a more formidable and extensive emigration.

THE measures of the assembly in removing this ground of alarm, were prompt and vigorous.*

Capt. Hill
dispatched

* Whereas information hath been received, that many western or inland Indians are drawn from the mountains, and lately set down near the falls of James river, to the number of six or seven hundred, whereby upon many several considerations being had, it is conceived great danger might ensue to this colony: This assembly therefore do think fit and resolve, that these new come Indians be in no sort suffered to seat themselves there, or any place near us, it having cost so much blood to expel and extirpate those perfidious and treacherous Indians, which were there, formerly: It being so apt a place to invade us, and within the limits which in a just war were formerly conquered by us, and by us reserved at the conclusion of peace with the Indians.

In pursuance thereof, wherefore, and due respect to our own safety, be it enacted by this present grand assembly, that the two upper counties, under the command of captain Edward Hill, do presently send forth a party of one hundred men at least, and that they shall first endeavor to remove the said new come Indians, without making of war, if it may be only in case of their own defence: Also strictly requiring the assistance of all the neighboring Indians to aid them to that purpose, as being part of the articles of peace concluded with us; and failing therein, to look duly the safety

O

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with 100
men to re-
move them.

One hundred men were dispatched under the command of Edward Hill, to dislodge the intruders. His instructions were to use peaceable means only, unless compelled by necessity ; and to require the assistance of all the neighboring Indians, according to the articles of the late treaty. The governor was at the same time directed to send an account of this invasion to Totopotomoi, and desire that his influence should be exerted in procuring the immediate co-operation of the friendly tribes.

IT is difficult to form any satisfactory conjecture as to the motives of this extraordinary movement directly against the stream and tide of emigration. It was certainly a bold step to descend into the plain, in the face of an enemy, whose power they must have heard of, and which could scarcely fail of inspiring astonishment and awe ; and to take the place of warlike tribes, whom the skill and destructive weapons of the whites had lately extermimated and swept away.

THE scanty materials which the state records have preserved of Indian affairs, throw little light on this subject. But though they do not present this people in all the various relations of peace and war, we generally see them in one point of view at least ; and are often able by induction, to supply a considerable range of incident and reflection. In the second session of assembly, co-

of all the English of those parts, by firing of their arms, and providing ammunition ; and that they have recourse to the governor and council for farther directions : And the governor and council are desired to send messages to Totopotomoi and the Chickahominies, and the other Indians, and to treat with them as they in their own wisdoms and discretions shall think fit.

It would appear by this act, that the assembly assumed the privilege of making war,

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1st.

Colonel Edward Hill was cashiered, and declared incapable of holding any office, civil or military, within the colony, for improper conduct in his expedition against the Rechahecrians. We are not told whether the offence of Hill was cowardice, or a willful disobedience of the instructions he had received. There is however reason to believe, that he was defeated, and that the Rechahecrians maintained themselves in their position at the falls by force: For the governor and council were directed by the assembly to make a peace with this people, and they farther directed that the monies which were expended for this purpose, should be levied on the proper estate of Hill.*

FROM other sources almost equally authentic, we learn that the aid demanded of the Indians was granted without hesitation. Totopotomoi marched at the head of an hundred warriors of the tribe of Pamunkey, and fell with the greater part of his followers, gallantly fighting in this obstinate and bloody encounter.

THE first session of assembly this year, was wound up by an act, which furnishes an addition-

Totopoto-moi, king of Pamunkey, joins him with 100 men. Virginians defeated & Totopotomoи slain. Payment of

* On a debate and consideration of the charge and defence of colonel Edward Hill, by the general and unanimous vote of *both houses*, without any contradiction, he hath been found guilty of those crimes; and witnesses there alledged against him; and for the vindicating themselves from any imputation of his crimes and deficiencies, they have ordered, that his present suspension of all offices, military and civil, that he hath or may have, continue; and that he be made incapable of all restitution but by an assembly, and that he be at the charge of what's already expended in procuring a peace with the Rechahecrians, and if the governor and council shall find any nearer way to effecting thereof, that it shall be acted at the said colonel Hill's proper cost and charge.

A literal transcript from ancient records.

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taxes only
qualification of the
right of suffrage.

al confirmation of the intelligence and public spirit of the assembly, and the ground which the representative principle was daily gaining in their affections. It seems that in 1654, an act had passed confining the right of suffrage to such as were possessed of a certain qualification in real or personal estate. This privileged class was analogous to the free holders in England, nothing more in fact, than an aristocracy on a large scale; the borough principle, only more extended. It was discovered that the admission of this narrow, selfish, and illiberal policy, was incompatible with the bold principles of the English revolution; and utterly repugnant to the long established usages of Virginia: And it was during this session, repealed. Some of the arguments used by the advocates of repeal, discover themselves in the preamble to the act, and they are such as must suggest themselves for ever to the friends of liberty and equality; to all but the vain, unreflecting, or interested advocates of orders, privileges, and corporations with exclusive rights, honors, and emoluments. They state, that it was UNREASONABLE and UNNATURAL that men, who contributed to the support of government and the defence of the country, should be deprived of their chartered and natural rights, by the very servants whom they had chosen to watch over their interests and security; but to whom they never could be supposed as intending to delegate an authority so mischievous and extensive. They might have said that in a state of nature, and in the sight of God, all men were equal, and at the period of the first settlement, all the planters were equally subject to the president and council, the pressure of whose government, severe and arbitrary as it was, was felt by all alike; that as their oppressions and grievances were the same under an arbitrary government, so were

their rights and liberties in 1619, when the right of the colonists to equal laws and representative government was solemnly proclaimed in Virginia: That to deprive men of rights, which they inherited from nature; which were clearly expressed by charter; which were solemnly recognized at the grand æra of reform; and which were sanctioned by almost invariable usage, was an exertion of authority, so violent and wicked, as to merit the charges of usurpation and tyranny.

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THE objections to these arguments are such only as arise from avarice or vanity, from ignorance or ambition. It is pretended that states are either commercial, agricultural, or mechanical, according to the nature of their position, climate, and productions; and that an undoubted preponderance and ascendancy should be assured to that description of persons, whose pursuits and professions accord with the national bias and propensity. But wherever a preference or propensity of this nature exists, it will be sure to produce sufficient inequalities, without the aid of laws. And it is the duty of governments, instead of making inequalities greater, to lessen and correct them. According to this doctrine, the rights of man, which he inherits from nature, and which conduce to his moral improvement, would be the rights of merchants and sailors in Holland or Genoa; of watch makers in Geneva, and of nobles in the monarchies of Europe: But what difference does it make to me, whether my liberties are torn from me by a conspiracy of merchants, or artisans, of nobles, or planters. The injury and insult are indeed aggravated by the tyranny of men, who can pretend to no color of divine right or ancient prescription: Who call themselves my fellow citizens; who prate of liberty and the republic; and who, under cover of hollow and deceit-

CHAP. ful expressions of regard for liberty, conceal the
II. darkest projects for the depression of the rights of
1556. the many, and the aggrandizement of their own
order.

BUT is it true that this policy is even expedient: Is it true that in a popular government, it ever can be expedient...It is universally conceded that this kind of government, although in the enthusiasm of liberty and the wide spread of mind, it possesses resources unknown in monarchies, wants notwithstanding that unity and concentration of executive authority, which enables kings to prosecute and accomplish the most important enterprizes with decision and dispatch. To compensate for this defect, it is necessary that the resources of freedom, and they are always sufficient, should be drawn out. The interest of the nation should be obviously and palpably the interest of every individual. It should be a community of interest, of glory, as well as danger. Then it is that the prejudice of local attachment, backed and confirmed by the moral sentiment of patriotism; by the sense of common interest and danger, and the proud consciousness of freedom, achieves those miracles of valor, of constancy, and disinterestedness of which history affords so many examples. Then it is that youth and age would step forth unbidden to cleave down the crest of invasion.

BUT when the rights of a large class of the community are taken away by a minority, or even by a majority, how different is the national sentiment at the crisis of invasion. Instead of union and courage, there is apprehension and division. With what face can the disfranchised be asked to take arms: In what language are they to be addressed. Shall they be told that liberty is in danger...they will reply that is none of their concern;

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they are no wise interested in the dispute; they are already slaves. They will scornfully tell their oppressors to fight their own battles; that as they had neither the justice nor liberality to consider them as *men* during peace, they should not meanly have solicited their services in war. Such was the language of the Roman people on Mount Aventine to the ambassadors of the senate: And had their remonstrance been attended to, and the absurd distinctions of Plebeian and Patrician been extinguished, the energies of an united people had probably for ages staid the fall of that republic. This subject is well worth the attention of every individual in the state; but its discussion through all its bearings, would interfere with the unity of history. The bare recital of the act will hold up to future degeneracy, the noble principles of the founders of Virginia: It will shame the boasted improvements of an age of *illumination*, by the noble and majestic simplicity of our fathers.

At the second session of assembly during this year, mr. Digges was requested to retain his office of governor during his stay in the colony. He was appointed in the room of Bennett, who had been deputed the colony's agent near the Protector, and he was now on the point of proceeding to England, in order to support the interest of Virginia, conjointly with Bennett and Matthews, the governor elect.* It is a singular cir-

E. Digges,
governor.
Matthews,
governor elect.

* Ordered, that Edward Digges, esq. governor, after the expiration of his government, be requested to continue his office and retain the reins of government in his hands during his abode in the country, and in the interim, colonel Samuel Matthews, governor elect, to take place next him in council.

Ordered, that Edward Digges, esq. after the expiration of his government, do in the council take place next unto colonel John West, esq.

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Diggs, Ben-
nett & Mat-
thews ap-
pointed co-
lony's a-
gents in En-
gland.

cumstance, that the only governors during the existence of a government which was imposed by force, should have been all endeared to the colonists, by their mild and popular qualities, and should have all been deputed by them to the important trust of defending their interests and liberties. It is another singular fact, that these governors were actually in England at the same time, and the colony was left without a governor.

Nor did any inconvenience arise from their absence. The senior counsellor was empowered and directed to discharge the functions of this office; and the habits of the people, and the influence of the assembly, secured the public tranquility.

THERE were several causes which induced Virginia to send her most faithful and influential characters as their agents at this time to England. A dispute respecting boundaries had existed between Virginia and Maryland, which was yet undetermined, and the discussion of the claim had been productive of considerable uneasiness and expence. Independent of her anxiety to bring this dispute to a favorable issue, they were anxious to remove from the mind of Cromwell, some unfavorable impressions which had been raised by her supposed attachment to the royal cause, and her conduct in the late civil war in Maryland. She had given refuge to Philip Calvert, governor of that province, in the beginning of 1645, when he was expelled by an insurrection headed by Clai-bourn,* and complaints had been sent home by the commissioners of parliament, that she was

* The same Claibourn against whom an indictment for felony had been found by the government of Maryland, in 1633.

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still engaged in supporting the Proprietor, against the interests and wishes of the people. Charges like these were peculiarly calculated to draw down on them the displeasure of the Protector.

THE commissioners, with Claiborne at their head, were engaged in the holy work of rooting out the abominations of popery and prelacy in Maryland; and the supposed attempt in Virginia, to interrupt the work of righteousness, was looked on as the instigations of Satan, to retard the establishment of God's religion, and the dominion of the Saints. Virginia was sensible of all the danger of her situation. The Protector had written a severe and menacing reproof to the governor and council, against what he termed the presumption and impiety of this interference, and they were strictly commanded in future to attend solely to their own concerns. The convention of 1651 was not yet ratified in England, and there was just ground of apprehension, that the liberties and immunities they had stipulated for with arms in their hands, and which had been solemnly acknowledged by the commissioners of parliament, in the name of the commonwealth, would be wrested from them by the arts and power of a man, who was every day manifesting his contempt of the most sacred obligations, and his aversion to the very principles which he had contended with so much zeal and skill to establish. It was to counteract the influence of these reports, that Bennett, Digges and Matthews were successively* deputed, and afterwards associated as agents in England.

* This day colonel Francis Morryson was desired by the house to write two letters, one to his highness, the other

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I FIND by an order of this assembly, that sir W. Berkeley was still in the colony. Four thousand five hundred pounds of tobacco in cask, were directed to be paid him as the price of his house at James Town, out of the levies in James-City county. This order was stated to be in conformity to a previous agreement, although the clerk had neglected to make the usual entry of the transaction. It would appear by these arrangements, that he was preparing to fulfil by his departure, his part of the convention of 1651: But his extraordinary delay in the colony, under various pretexts, as well as the incidents which follow, afford strong presumption, that he had not abandoned the hope of a speedy restoration of royalty, and that he lingered in the expectation of seizing some favorable incident which might contribute to this event. The vigilant and severe government of the Protector, had compelled the cavaliers to resort in crowds to Virginia; and although the deportment of sir W. Berkeley was free from suspicion, there is reason to believe that a secret correspondence was carried on between him and the disaffected. Independent of the cavaliers, whose number owing to the causes above mentioned, had become considerable, the proprietors of large tracts of rich lands on the seaboard, were probably still attached to a govern-

to the secretary of state; and captain Willis to draw up a testimonial to the governor.

A literal transcript from ancient records.

Every thing in those papers tends to prove, that the whole business of government, executive, legislative, and judicial, was, in a great measure, executed by the house of burgesses, or according to their wishes, and at their special direction. It was only during the recess that the governor and council were any thing.

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ment of greater shew and splendor, than suited the genius of a republic, and were impatient for the return of the old regimen, which by affording greater consequence to wealth, and the vain pride of family, would check the familiarity of the vulgar mass, whom they could not help regarding as their inferiors. To these several grounds of discontent, all the historians have added the operation of other and no less powerful causes. As foremost in this class, the severity of the Protector's conduct towards Virginia; his severe regulations respecting commerce....his jealousy manifested in the rapid change of governors, are taken as decided proof of the fears of the usurper and the disaffection of the colony. These charges have been boldly urged by the partial historians of that day; and their successors, either indolent or ignorant, have continued to repeat them without any variation. It was found less difficult to receive, than to refute them. Yet extraordinary as the assertion may appear, they are wholly untrue. The government of the Protector, severe, haughty, and unaccommodating in the other parts of the empire, was scarcely felt in Virginia. The ordinance of 1650, so much insisted on, was disarmed of its severity by the convention of 1651; a convention which was religiously observed during the existence of the commonwealth.

THE famous act of 1661, for the encrease of navigation, as being repugnant to the convention of 1651, was not acknowledged in Virginia; and so far is the last charge unfounded, that not a single governor was either appointed or removed by the Protector. They were all elected by the grand assembly, for their patriotism and talents; and they voluntarily consented to a relinquishment of their offices, in order that they might be able to procure more substantial benefits for the

CHAP. colony, by their influence and presence at the
 II. court of the Protector. The letter of the assembly
 1656, to the Protector,* affords the clearest evi-

* May it please your highness,

We could not find a fitter means to represent the condition of this country to your highness, than this worthy person, Mr. Diggles, our late governor, *whose occasions calling him into England*, we have instructed him with the state of this place as he left it; we shall beseech your highness to give credit to his relations, which we assure ourselves will be faithful, having had many experiences of his candor in the time of his government, which he hath managed under your highness, with so much moderation, prudence, and justice, that we should be much larger in expressing this truth, but that we fear to have already too much trespassed, by interrupting your highness's most serious thoughts in greater affairs than what can concern your highness's most humble, most devoted servants.—Dated from the assembly of Virginia, 15th December, 1656.

Superscribed,

For his Highness the Lord Protector.

Does this look as if mr. Diggles had been recalled.

Right honorable,

Though we are persons so remote from you, we have heard so honorable a character of your worth, that we cannot make a second choice, without erring, of one so fit and proper as yourself, to make our addresses to his highness the lord protector. Our desires we have intrusted to that worthy gentleman mr. Diggles, our late governor; we shall desire you would please to give him access to you, and by your highness. And as we promise, you will find nothing but worth in him, so we are confident he will undertake for us, that we are a people not altogether ungrateful, but will find shortly a nearer way than by saying so, to express really how much we esteem the honor of your patronage, which is both the hopes and ambition of your very humble, and then obliged servants.

From the assembly of Virginia, 15th Dec. 1656,

Superscribed,

To the right honorable John Thurlow,

Secretary of State.

Honored sir,

I am commanded by this present assembly, now sitting,

dence that Digges was not recalled by Cromwell; and the language of the assembly's instructions* to Digges, previous to his departure, is equally decided as to the estimation in which the republican governors were held by that body. "You are to join yourselves (say they) *to our friends*, co-

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to certify you, that they having taken into their consideration that the difference of bounds between Virginia and Maryland, hath been in long dispute, and yet as far from determination as at first: It is therefore their unanimous desire, that you desist from all manner of farther proceeding in the same, until further order from the country. This, sir, is the sum of what I am enjoined from them to let you know, besides their thanks and my obligation in particular, which obliges me to subscribe myself, your very humble servant,

FRANCIS MORRYSON.

Superscribed,
To Colonel Samuel Matthews.

* Instructions for the Honorable Edward Digges.

Upon your first arrival, you are desired to make your first addresses to the right honorable John Thurbow, secretary of state, and after delivery of the country's letters, by his means to get address to his royal highness the lord Protector. You are to assure his highness, that according to his letter we have not interested ourselves in the business betwixt Maryland—and have been unconcerned in their quarrel from the beginning until this time, and so shall continue according to his highness's direction in that letter. You are desired to join yourself with our friends colonel Matthews and mr. Bennett, and to treat with the most considerable merchants that use this trade, and to let them know how much this assembly hath endeavored to lessen the quantity and mend the quality of tobacco; to see what they will do towards it, therefore without the endeavor be reciprocal, we shall hardly mend the commodities without they mend the price, for if we once find that good and bad is all one as in respect to us, we shall certainly make that which is made with most ease. Of these transactions and the success of them, you are desired to give the country an account by the first ships next year.

CHAP. **lonel Matthews and mr. Bennett, and of the success of your transactions you are desired to give the country an account by the first ships."**

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OF the transactions from this period to the restoration, there is an entire chasm in the records. Beverley* and Robertson, I know not on what authority, state that on the death of Matthews, the people whose resentment was highly enflamed by the commercial restraints imposed by the commonwealth, repaired to the retreat of sir W. Berkeley, and with loud acclamations proclaimed him governor. That on his refusing to act under an usurped authority, they boldly threw off all allegiance to the Protector, and proclaimed Charles II. king of England, France, Ireland, and Virginia, some time before the king was restored in England. So rests the account, unsupported by a single authority.

IT is certainly matter of surprise, that the events

* Notwithstanding this act of navigation, (says this historian) the Protector never thought the plantations enough secured; but frequently changed their governors to prevent their intriguing with the people. So that during the time of the usurpation, they had no less than three governors, namely, Digges, Bennett, and Matthews. p. 53. This account is copied by Dr. Robertson. There is unquestionable evidence on face of the records, that Bennett was chosen by the grand assembly; that Digges was called to the council during the recess by the governor; that the appointment was approved by the assembly; that Digges was chosen governor—that he was afterwards deputed the colony's agent conjointly with Bennett; that Matthews was elected to succeed him, but that Digges was requested by the assembly to act as governor during his residence in the colony. There is also clear proof that the colony, during the existence of the commonwealth, exercised all the rights of real independence. It was fashionable to cry out against the commonwealth and the Protector, and these facts have therefore been wholly lost to history.

of an æra so important in the history of Virginia, should have been either wholly unknown, or grossly misrepresented by our historians.

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THE rage of royalty at the time of the restoration, and the policy of Charles, would naturally endeavor to render odious the acts of the commonwealth and the administration of Cromwell ; but the memory of the principal events was preserved in the English state papers and the records of this state, and it is not easy to assign any cause for this melancholy ignorance or perversion of facts, except the want of historical impartiality, the weakness of party attachment, or the want of sufficient industry and application.

THE gross ignorance of the transactions down to this year, of which I have complete evidence before me, renders their account of the succeeding events, of which I know scarce any thing, justly suspected. We are not informed how or at what time, was effected the sudden and miraculous conversion of the colonists from sturdy republicanism to submissive loyalty. It is stated to have happened previous to the restoration of Charles : But they do not tell us the day, the month, or even the year....They forbear to explain whether the appointment of sir W. Berkeley took place in the usual manner, by the grand assembly, or by the tumultuary proceedings of a mob. They tell us indeed, that before he would consent to accept the reins of government, he made them promise to throw off their allegiance to the commonwealth, and declare for Charles. If such a proposition had been made to an assembly, composed of cavaliers and rich land holders, it is sufficiently credible. But I am satisfied that sir W. Berkeley received his authorisay from a tumultuous assemblage of cavaliers and aristocrats, without the agency of the assembly. He

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afterwards indeed issued writs for convening that body in the name of the king ; but the assembly, prorogued by the fears of the governor, did not meet until the following year, after Charles had been proclaimed in England.

WHILST I am writing, facts are continually crowding on me in support of this statement, and what at first was only conjecture founded on probability, is every moment becoming conviction.

I ADVANCE with little apprehension of seeing my opinions refuted, that the government of the English commonwealth was mild and liberal, and even popular in Virginia ; that the privileges and liberties of the colonists were considerably enlarged during this period : That neither the ordinance of 1650, nor the act of 1651, took effect in Virginia. And although the records of the colony are too imperfect to justify a positive declaration, there are sufficient reasons to believe, that the appointment of sir W. Berkeley in 1659 or 1660, was the work of a mob ; and never did receive the sanction of the representatives of the people, until Charles II. was firmly seated on the throne.*

* It weighs as a strong objection against this opinion, that Morryson the speaker, and several other conspicuous members of the house of burgesses, and the council, during the commonwealth, were active and influential loyalists after the restoration. This would seem to infer that they attoned for their forced submission to the commonwealth, by electing sir W. Berkeley and proclaiming the king.

CHAPTER III.

Apprehensions of the colonists—Are calmed by the restoration—Assembly convened—Digest of legal code—New commission to sir W. Berkeley, and instructions—Camplaisance of the assembly—Attempt to establish towns—Its failure, to what to be attributed—Report of the re-enaction of the navigation act—Disappointment and chagrin of the colonists—They remonstrate against it, but without success—They set themselves at work to evade it—Persecution of sectaries—Quakers—Case of Hill—Good effects of the encouragement to manufactures—A guard raised for the government—Negociation with Carolina and Maryland respecting the improvement of their staple—Its failure—Discontents encrease—Some veteran soldiers of Cromwell conspire against government—Are detected by the compunction of one of the conspirators—An assembly—Reward the informer—Attempt of the governor to alter mode of paying taxes—Land tax recommended—Is rejected by the assembly—Resolve to build a state house—Negociations renewed with Maryland and Carolina—Answer of Maryland favorable—Act prohibiting the planting tobacco for one year—Number of counties and representatives—Attention to manufactures recommended—Several premiums claimed for the cultivation of mulberry trees—Suspicions of the good faith of Maryland—Absurd

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grants of the king to his favorites—Virginia remonstrates against them—Deputies appointed to present it—Fund for defraying charges of mission—Colonel John Washington—Attempt of governor to defeat assembly's right of raising supplies—Mortification of the governor at its ill success—Establishment of forts—Colony sustain some injury from the Dutch—Sir W. Berkeley attempts new discoveries amongst the Indians—Expedition of captain Batt—Its failure—Governor resolves to complete the discovery in person—Appoints his deputy during his absence—Assembly agree to assist in the discovery.

CHAPTER III.

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Sir William
Berkeley.

WHILST the Virginians waited with fearful solicitude the issue of their revolt, authentic information was received that Charles II. had been proclaimed with acclamations in England; and their minds, astonished at the boldness of the action they had performed, and held in suspense by well grounded fears of the power and indignation of their enemies, gave themselves up to the most unbounded joy. Their former danger was now recollected with delight, as the surest test of their glory: And their exultation was mingled with a proud sense of their services, and the benefits they had conferred on the king and monarchy.

In this temper, the representatives of the people, who had been summoned to meet in 1660, and whose meeting was, by the governor prorogued to this year, convened at James-Town. Nothing but professions of loyalty and responses to the national joy were heard amongst them. The first object of their attention, was a legislative digest of their legal code, with the view, according to their declaration, to repeal and expunge all unnecessary acts, and chiefly such as might "keep in memory their forced deviation from his majesty's obedience." It is not a little amusing to observe this coyness, this affected antipathy to the name and shadow of the republic, in men, who a little before addressed Cromwell in terms of the most

March 12.

CHAP. exalted respect and attachment. History furnishes a thousand instances of such new born zeal and well feigned loyalty: But however they may impose on the objects of their flattery, they are stript of their disguise before the impartial tribunal of posterity.

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CHARLES had scarcely ascended the throne when he transmitted to sir W. Berkeley, a new commission as governor of Virginia, with permission to return to England, and appoint a deputy in his absence. To this was added a body of instructions after his arrival in England, which as unfolding the policy of the court, and the manners of the times, may not be unworthy the notice of history.

THE first article recommended the duties of religion, the use of the book of common prayer; the decent repairs of churches, and a competent provision for conforming ministers. For this purpose a convenient house, with a glebe of an hundred acres for the exercise of their industry, were directed to be assigned them, together with a liberal maintenance to be furnished out of the fruits and productions of the earth, and the labors of the planters.

SIR W. Berkeley was instructed to summon an assembly a month after his arrival in Virginia, or sooner, according to the usage of the colony, and to declare a general act of indemnity in the name of the king, with the exception of such as were concerned in the death of his father, and provided that all laws and orders made during the late rebellion, and which were derogatory to the respect and obedience which subjects owe to their sovereign, were repealed. New England was proposed as an evidence of the value and importance of towns and seaports, and sir W. Berkeley was requested to set an example to the people of his

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government, by erecting a house for himself at James-Town, and to advise the members of the council to reside at that place....The attention of the government was next directed to new and copious sources of wealth in the production of silk, flax, pitch, hemp, and pot-ash. As a more particular inducement to the colonists to attend to this advice, the king took occasion to mention, that he had worn some of the silk of Virginia, which he found not inferior to that raised in other countries. This article is probably the ground of the tradition mentioned by Beverley, that the king had worn a robe of Virginia silk at his coronation.

THE next advises a correspondence with Maryland, for the purpose of raising the price of tobacco, by devising some means of diminishing the quantity and improving its quality. The two shillings per hogshead on tobacco imposed by former assemblies, was confirmed, and from this revenue, and the one shilling per ton port duty on shipping, one thousand pounds were directed to be applied as a salary for the governor. The instructions concluded with the offer of royal assistance for the establishment of an iron work, and with some advice respecting the civil and impartial administration of justice, for which purpose a commission of oyer and terminer was granted, and an offer made to send over able judges, provided they were thought necessary, and competent salaries should be assigned by the assembly.

THESE instructions were immediately transmitted by sir W. Berkeley to his deputy in Virginia, and were taken as the guide of the revised code, which the assembly was digesting under his inspection. The new acts were litt'e more than transcripts of the instructions, and wherever there is any departure from them it arises solely from

CHAP. III.
1661. the belief, that the object was in itself impracticable or inconsistent with the long established usages and habits of the people.

IN the latter part of this year, sir W. Berkeley arrived in the colony, and gave the constitutional assent to the new code. But it was not enough to legislate respecting objects of speculative improvement. The new acts proposed rewards indeed, for successful experiments in the several branches of commerce and manufactures advised by the king; and modes were pointed out for carrying into effect the king's intentions respecting towns: But to divert the labors and commerce of an infant colony from their usual channels, is a project attended with serious difficulties; and nothing less than the example of a governor so respected for his virtues, could have induced the colonies to venture on these new and untried speculations.

SIR W. Berkeley built a handsome house at James-Town, and the members of the council, and some of the most considerable traders and planters followed his example. Others were built at the charge of the several counties, and James-Town, a name celebrated as being the first English settlement in America, the theatre of Smith's exploits, and the romantic tenderness and compassion of Pocahontas, began rapidly to assume the appearance of a handsome village; whilst the meetings of the council and assembly, and the attendance of suitors from all parts of the colony to the general and appellate courts; and the hurry of sailors lading and unlading, gave it a bustle and tumult beyond what was to be expected from its appearance and extent.

BUT the present rage for towns was rather an impulse than a constant and steady passion. The planters and traders lived in general, dispersed

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along the banks of navigable rivers, and they found it more convenient that commerce should be brought to their doors, than that they should break up their establishments and remove to distant and unwholesome marts. This change would moreover be attended with a diminution of their consequence. Instead of the proprietors of extensive tracts exhibiting the pomp and hospitality of ancient barons, they would be cut down to the size of other men, and mortified by the insulting competition and rivalry of clerks and traders. They had no objection 'tis true to towns : The king had advocated the project, and they were no doubt beneficial. They had no objection to their being filled with the agents and retailers of commerce : But they could not think of tearing asunder the ligaments that were so twined round their habits, their feelings, and affections through any motives of complaisance or loyalty.

NOTWITHSTANDING these scruples, there was one measure, which alone was wanting to ensure success to the wishes of the king ; the establishment of ports of entry, by confining navigation to certain places, must inevitably have produced this effect, and such a regulation was actually adopted with respect to the James river ships. But even here, the measure was defeated by the want of activity and integrity in the officers. The ships after being entered at the custom house, were permitted to trade to all parts of the river : The consequence of this neglect was, that the town, deprived of the privilege of an exclusive market, was falling fast into neglect ; and the houses, which had been erected at the public expence, were obliged to be rented to the keepers of ale houses and ordinaries, and that class of petty retail traders, who are invariably to be found in the wake

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of navigation, the constant companions of sea faring people.

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BUT whilst the government was engaged in these plans of improvement; and the hopes of all were raised by the prospects of wealth and the assurance of freedom, they heard with the deepest surprise and concern the re-enaction of the navigation law by the British parliament, fortified with new penalties, and armed with fresh prohibitions. Where they expected to meet, not merely justice, but rewards and honors, to find only severity and imposition, afforded them the deepest mortification, and it was resolved to remonstrate against the act as highly oppressive, if not destructive of the commerce of the colony. In this measure there was the most cordial co-operation of all the members of the government. But with the British parliament, and even the king, the good or bad fortune of the colony were regarded as utterly beneath consideration, when the interest of the parent state was in question; and so far was he from affording the relief which had been demanded, that all his influence and that of his ministers were employed in giving force to the statute.

VERY early it had been the fashion to suppose, that the colonists by emigrating, had lost a portion of their dignity, and that at best they should be regarded only as an inferior order of Englishmen, whose duty it was to labor for the advancement and glory of the nation.

THE Virginians, disappointed in their expectations of relief from this quarter, commenced a considerable contraband trade with foreigners, particularly with the Dutch settled at Hudson's river; and it was prosecuted with considerable vivacity, notwithstanding the heavy penalties of the act, and the vigilance of the collectors. The act it-

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self being manifestly a grievance, and all the branches of the government having concurred in the prayer for its repeal, the office of an informer would probably be regarded as odious and contemptible, and the government would connive at the irregularities of a trade, which was considered essential to the prosperity of the people.

YET notwithstanding the general disapprobation of those restrictions, it would sometimes happen that the vigilance or rapacity of revenue officers, would demand the prosecution and punishment of commercial offenders; and a considerable degree of irritation was kept alive, which being fed by the decay of trade and the public distress, augured at no distant period some violent interruption to the tranquility of society.

THIS year Virginia full of loyalty to a governor, who notwithstanding his mildness and humanity on other occasions, had adopted the religious and political intolerance of his sovereign, began to put in force the laws* enacted against sectaries and non-conformists.

THE Quakers† a sect, whose enthusiasm impelled them to encounter the greatest dangers with the most unexampled patience in defence of their tenets, began at this time to attract the attention of government. They had braved with the zeal of martyrs, the furious anathemas of Laud, and the deeper and more destructive fanaticism of Cromwell.

* In 1642.

† The violent enthusiasm of this sect, like all high passions, being too strong for the weak nerves to sustain, threw the preachers into convulsions and shakings, and distortions in their limbs; and they thence received the name of Quakers.

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ATTACHED to no party, disdaining to mingle in the petty and limited schemes of human policy, they openly declared war against all existing institutions, as impositions on the understanding of man, and usurpations of the just power and authority of God. But their only weapons were the plainness of their dress and manners, the sanctity of their private lives, and the holy phrenzy of their discourses.

THEIR superior sanctity excited first, the envy, and afterwards, the persecution of the other sects: But after innumerable fruitless attempts to vanquish their patience and subdue their spirit, they were permitted by connivance to exercise a religion, which wholly divested of the external splendor of ceremonies, which catch the imaginations and interest the passions, was supposed to be little calculated to disturb the established authority.

IT is not a little curious to observe the visible abatement, which time produces in the zeal of the various sects of religion. At the outset, it is necessary to make a strong impression, and each burns and flames with the fervor of religious ex-tacy: But it is not in nature, that a paroxism so violent should for any considerable time be supported at this fever height, and they all naturally descend to the temperate point of the thermometer.

THE origin of this interesting sect was marked by a thousand extravagancies* equally repugnant to decency and good sense: But as soon as the persecutions against them began to abate; and their passions were allowed to cool; their deportment immediately assumed that meek, benevo-

* Hume's Eng. vol. V. p. 387.

lent, and decent appearance, which has ever since continued to distinguish them.

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IT was expected that the colonies in the new world, tolerably free from the influence of the hierarchy, and the presence and pretensions of privileged orders, would afford a theatre more congenial with the equality and fraternity so dear to them, and the blunt and unceremonious plainness of their manners ; and they had lately in considerable numbers emigrated to Virginia, Maryland, and the New-England colonies.

THEIR reception in these several places proves how little analogy is to be relied on in calculating the conduct of man. In the republican colonies of New-England, where their republican manners and principles might be supposed to beget a sympathy for their distresses, they were immediately regarded as the instruments of the prince of darkness, and the whole vengeance of the law was let loose upon them. In Maryland where the governor and a majority of the people were papists and royalists, a religion and government, whose spirit is thought to be hostile to liberty, and averse to toleration, they were immediately hailed as brothers, and admitted to all the rights of freemen. Virginia chose a middle course, alike removed from the generous policy of Maryland and the intolerant bigotry of New-England : They were excluded from the rights of citizens, and exposed to the superintending controul of magistrates and sheriffs : They were the objects of unmerited contempt and the victims of subaltern persecution and annoyance ; but there is not a single case of capital punishment, and scarcely one of any violent outrage committed against them on account of their opinions.

DURING the present session of assembly on the

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information of John Hill,* sheriff of lower Norfolk, John Porter, one of the burgesses of the same county, was charged "with being loving to the Quakers, and attending their meetings." His defence was short, but at the same time honest, legal, and manly. He confessed that he was well disposed to that sect, whose mild doctrines and practical virtues justified his attachment: But conceived that part of the charge which declared his attendance at their meetings not to be proved with that clearness and certainty which the law requires. The assembly appeared to be sensible of the force of this observation, and proceeded to tender him the oaths of allegiance and supremacy, and expelled him on his refusing to take them.

IN this transaction, there is nothing violent or extraordinary. In all representative bodies, there are rules of order and forms of proceeding, to which the strictest obedience is exacted from their members; and we should rather ascribe the expulsion of Porter to his refusal to conform to these regulations, than to the accusation of Hill.

THE encouragement afforded to commerce and manufactures, appears to have been attended at

* Whereas mr. John Hill, high sheriff of lower Norfolk county, hath represented to the house, that mr. John Porter, one of the burgesses of that county, was loving to the Quakers, and stood well affected towards them, and hath been and was so far anabaptist as to be against the baptism of children—upon which representation the said Porter confessed himself to have been and to be well affected to the Quakers; but conceived his being at their meeting not to be proved; upon which the oaths of allegiance and supremacy were tendered to him, which he refused to take. Whereupon it is ordered that the said Porter be dismissed this house.

this time with some of the effects, which were contemplated. George* the Armenian, having proved to the satisfaction of the assembly the manufacture of ten pounds of wound silk of Virginia, it was ordered that he should be paid out of this years' levy, according to the act. John Dolby† having produced a certificate that he had woven nineteen yards of woollen cloth in Northampton county, and John Pitte,‡ that he had built a vessel of 28 tons, in the Isle of Wight county, were ordered to be paid according to the acts in those cases provided.

To add to the authority and security of government, a guard of an officer and twenty privates were ordered by the assembly, and ¶forty-five thousand weight of tobacco were set apart for their support. But ever attentive to the security of their own privileges, they directed that half of this corps should be at the disposal and under the command of an officer of their own appointing, and that the establishment should continue only so long as appeared to them expedient.

But the main object of legislative attention remained yet to be discussed. The king's instructions had called their peculiar attention to the subject of tobacco, which owing to the glut of the markets and its deteriorated quality, had fallen so low in value as scarcely to furnish cloaths to the colonists.

Two modes were proposed for obviating this evil, a diminution of the quantity usually planted; or a total cessation for a stipulated term. But to ensure success to either mode, it was necessary

* Ancient records.

† *Ibidem.*

‡ *Ibidem.*

¶ For each soldier 2000, or 80*l.* and for the officer 5000,
or 200*l.*

CHAP. that Maryland, and if possible Carolina, should concur in the project, for in these states tobacco was also the principal staple ; and were they left at liberty, whilst Virginia was restricted in the exercise of her usual industry, the object must inevitable have been defeated, and they would have grown rich by her depression and ruin.

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URGED as well by these considerations as by the commands of the king, and the obvious expediency of the project in contemplation, Carolina and Maryland manifested a disposition to unite in some plan for their mutual advantage ; and commissioners from the two colonies accordingly met at Wicomocomo for the purpose of arranging the principles of this commercial treaty. It was agreed at this meeting, that in the succeeding year, no tobacco should be planted in either colony after the twentieth of June, and that an assembly should be called in Maryland by the proprietor, to confirm the proceedings of her commissioners, and to apprise Virginia of her ratification ; and that the governors and councils of both colonies should be solemnly sworn by the commissioners on either side, to use their utmost exertions to carry into effect such laws as were adopted for this purpose.

WHILST the legislature was engaged in these measures, a conspiracy of a nature the most alarming was forming in her bosom ; and the moment for its explosion, had almost arrived, before government had received the slightest intimation of its existence. Several* causes operated at the same time to bring about this event. The late shac-

* The circumscription of their trade, the prosecution of the sectaries, and the little demand of tobacco.

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kles imposed on their trade, more strict and arbitrary than any regulation of Cromwell or the commonwealth, and more difficult to be evaded ; together with the rapid fall in the value of their only staple commodity, had, with a general poverty, introduced a general discontent. They compared their generous loyalty to the king in his distress, with his present narrow and arbitrary policy ; and their independence and happy condition during the existence of the commonwealth, and even under the usurpation of Cromwell, with their present subjection and distresses. The prosecution of the sectaries,* added fuel to the growing spirit of disaffection.

IT was fortunate for the government, and perhaps for the people themselves, that no character of sufficient influence could be found at this juncture to sanction the cause of rebellion, or marshal its resources by the weight of his character and talents.

SOME veteran soldiers, who had deeply imbibed the spirit of insurrection under Cromwell, and who after the restoration, had been transported to Virginia on account of their untractable and mutinous spirit, beheld with pleasure the progress of these discontents. By their advice a plan of insurrection was quickly conceived, and so well laid was their project, and so wide extended the sphere of the public discontent, that no discovery took place until the evening preceding the intended explosion. Even then the escape might be considered as providential....one of the soldiers of the name of Berkenhead, a man deeply infect-

* Divers sectaries in religion beginning to spread themselves there, great restraints were laid upon them under severe penalties, to prevent their encrease.

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ed with the mania of fanaticism, and whose poverty and sufferings might be supposed sufficient pledges for his fidelity, induced by compunction or what is more probable by cowardice, disclosed the whole plot in time to prevent its execution.

THE plan adopted by the governor was judicious. He issued secret orders to the officers of militia to assemble their corps on the very spot where the conspirators were to assemble sometime previous to the appointed hour, with directions to seize them separately as they arrived.*

THE orders of the governor were executed with precision, and the plan of the conspirators completely disconcerted: But some of the conspirators having taken the alarm and communicated it in their flight to their fellows who were hastening to the place of rendezvous, only a few were taken, and of these, only four were executed.†

THE proceedings of the assembly which convened three days after the disclosure of this plot, paint strongly their terrors at the danger they had escaped, and their gratitude for their deliverance.‡ After a preamble expressive of their gratitude to Heaven, it was unanimously resolved that the thirteenth of September, which was the day on

* Beverley.

† Beverley.

‡ Since the least mercy we receive from God's hands deserve our daily thanks, whether it be not fit for so transcendent a favor as the preserving all we have from so utter ruin, deserve not to have an annual solemnity celebrated to keep it in remembrance—Resolved that the thirteenth September be annually kept holy, being the day those villains intended to put the plot in execution.

Literal transcript from records.

The incorrectness of this language probably originated with the clerk.

appointed for the massacre, should be kept holy, and that five thousand weight of tobacco, with his freedom, should be presented to Berkenhead.*

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ADVANTAGE was taken of the alarm raised by this conspiracy, to attempt an entire change in the mode of paying taxes. The mode heretofore used since the foundation of the colony, was by poll, which considering the great disproportion in the fortunes of individuals, was certainly the least eligible. It had however, with little interruption, been connected during the whole of this period with the right of suffrage; and its use had been justified by a declaration, "that the lives and industry of the citizen were more valuable than lands and houses:" A compliment certainly ingenious and admirably calculated to reconcile a high spirited people to its use and continuance.

Its repeal was proposed during this session to the house of commons, and a tax on land recommended in its place. Whether owing to ancient prejudices, or possibly to an apprehension that the right of suffrage would be affected by the proposed alteration, the assembly adhered to the levy by poll.

THE attempt probably originated in a desire of contracting the right of suffrage, in order as it was pretended that the poorer classes might not have it in their power to elect to the assembly men disaffected to the government.

* Again—Since rewards for the encouragement of the good are as necessary as punishments for the rewards of the cruel—Resolved that Berkenhead have his freedom and five thousand pounds of tobacco in Gloster county, and that his master be satisfied for his time.

Verbatim from records.

S

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It appears however that sometime between this period and the year 1676, the right of suffrage was materially abridged, although no alteration had been made in the mode of levying taxes.

SEVERAL propositions appeared in this assembly, which exhibit strong symptoms of an increase of wealth and public spirit. The quarter courts and even the assemblies were accustomed since the foundation of the colony, to hold their sessions in taverns. This inconvenience, and the impropriety of such a procedure, was sensibly felt; and it was resolved to purchase a house for the courts and to build a state house for the assembly and the different offices attached to the government. Rules* of order were also established for the government of the assembly, from

* Orders to be observed in the house.

1. That no burgess shall absent himself from attendance on the house (without leave first obtained of the house or prevented by sickness) when any matter shall be debated of; but that every member shall keep good order and give good attention to the reading and debating of whatsoever shall be proposed or prosecuted or presented to the consideration of the house, and that every burgess shall with due respect address himself to Mr. Speaker, in a decent manner, and not entertain any private discourse while the public affairs are treated off.

2. That every member of this house for each time of his absence upon call of the clerk, shall forfeit twenty pounds of tobacco, lawful impediments excepted.

3. That the first time any member of this house shall be adjudged by the major part of this house to be disguised with drink, he shall forfeit one hundred pounds of tobacco; for the second time he shall be so disguised he shall forfeit three hundred pounds of tobacco, and for the third offence one thousand pounds of tobacco.

4. That upon debate of any thing proposed by the speaker, the party that speaketh shall rise from his seat and be uncovered during the time he speaketh, wherein no interruption shall be made till he hath finished, under penalty of one thousand pounds.

whence perhaps we should infer, that their sittings had often been marked by turbulence, intemperance, and gross personalities. These regulations suppose at the same time a growing regard for decorum and delicacy ; and they are strictly parliamentary. It is from circumstances like these that we collect the manners of a people.

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THE session of assembly of 1666, presents many subjects of interest and curiosity to a Virginian. The plan of a cessation was still under discussion between the commissioners of Maryland, Carolina, and Virginia ; and although the principles were fully agreed on, it had not yet received that formal ratification from the respective assemblies, which would justify any colony in singly hazarding the experiment.

MEANWHILE the depreciation continued to such an extent, that the planters were scarcely able to clothe their families by the sale of their crops. An answer arrived at length from the chancellor of Maryland, enclosing the lieutenant governor's proclamation, enjoining a total cessation for a given time, to all the subjects of that proprietary.

5. That no irreverence or indecent form of speech be uttered in the house by any person against another member of the house, under the penalty of five hundred pounds.

6. That to the end all things may be more orderly discoursed and debated of, no member after having once delivered his opinion about any matter proposed, during which time he shall not be interrupted, shall make any further reply about that proposition that time of the debate, that so every one may have liberty to declare his judgment, and the confused multitude speaking at once be avoided ; under the penalty of seventy pounds of tobacco.

7. That every member that shall pipe it after the house is began to be called over until an adjournment, or public license of the major part of the house, in the vacancy from any business, shall be fined twenty pounds tobacco.

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THESE letters accompanied with his own correspondence, the governor laid before the house; and the question being taken whether this was a sufficient confirmation, it was decided in the affirmative. By this decision an act made during the former session restricting the planting of tobacco from the first of February, 1666, to the first of February, 1667, was declared to be in force; and the governor was directed to signify the same by proclamation to the several counties.

THE number of the counties stood this year at nineteen: The representation* did not preserve the usual ratio, remaining still at thirty-five.

* Robert Wynne, Speaker.

Henrico,	York,
Capt. W. Ferrar.	Lieut. Col. Wm. Barker,
Charles-City,	Captain Wm. Parke.
Mr. Speaker,	New-Kent,
Capt. Thomas Southcoat.	Capt. William Claiborne,
James-City County,	Capt. W. Berkley.
Capt. E. Ramsay,	Gloucester,
Mr. Thomas Ballard.	Adjutant Gen. Jennings,
James-City,	Major Thomas Walker.
Mr. Thomas Hone.	Lancaster,
Surry County,	Mr. Raleigh Traverse.
Capt. Laurence Baker,	Rappahannock,
Mr. J. Warren.	Captain John Weyr,
Isle of Wight,	Mr. John Lucas.
Adjutant Gen. Bridges,	Stafford,
Major Nich. Hill,	Colonel Meel.
Mr. Robert Williamson.	Westmoreland.
Nansemond,	Colonel Nicholas Spencer,
Colonel John Blake,	Colonel John Washington.
Captain John Leare.	Northumberland,
Lower Norfolk,	Mr. William Presley.
Capt. Adam Thoroughgood,	Northampton,
Capt. William Carver.	Lieutenant Col. Kendall,
Elizabeth-City,	Capt. John Savage.
Col. Leonard Yeo,	Accomack,
Captain John Powell.	Col. Edmund Scarbrough,
	Mr. Hugh Yee.

AT the instance of secretary Ludwell, it was enacted that the existing titles to lands, the records of which were lost, or to which titles were annexed in records, should be considered valid, (the defects having been found to have happened by the neglect of the clerks of those times, and the casualty of two several fires.)

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BUT something yet was to be done to supply the loss to be immediately sustained by a cessation, and to guard against the possible failure of that experiment. The want of home manufactures left them completely dependant on the English merchants for every article of convenience or luxury; and as their principal trade centered in London, it was easy for a body of merchants acting in concert, to set what price they pleased on the several articles for exchange. The colonists might complain, but they were forbidden to carry their goods to another market: the ungenerous spirit of monopoly having thus debarred them the advantages of competition, which is at once a spur to industry and the vital principle of commerce.

Attention to
manufactures.

IN revolving the various modes of accomplishing these objects, an attention to manufactures could hardly have been overlooked. The assembly saw that they must begin by breaking that chain, which held them impotent and powerless at the feet of avarice and monopoly....and in their efforts to effect their emancipation, they seem to have been directed by judgment and moderation. After a preamble in which it is stated that five women, or children of thirteen years, could with ease provide sufficient clothing for thirty persons; the commissioners were enjoined within two years to provide and set up a weaver and loom in their counties, with the exception of Rappahannock, Lancaster, Westmoreland, and Stafford, which

CHAP. III. for local reasons, had their time extended to four years; and that the neglect of courts in carrying this law into execution, should be punished by amercement.

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THE culture of silk still engaged their attention, and it appears that a new impulse was given to their exertions. A major Walker, one of the members of assembly, produced satisfactory evidence that in the year 1664, he had growing upwards of 70,000 mulberry trees, and claimed the reward to which he was entitled by the act. Other claims of a like tenor were presented during the session.

BUT the benefits to be reaped from these projects, even though successful, were remote; and the necessities of the colony were immediate and pressing. Doubts began to be entertained of the good faith of Maryland in observing the cessation; and they were haunted with apprehensions lest, after tying up the industry of the colonists, by prohibiting the culture of their only staple, the project should be defeated by the avarice of a people who would grow rich by their ruin.

To these grounds of apprehension, others were added of a nature still more alarming. The king in imitation of the absurd prodigality of his father, had granted to some of his favorites large tracts of land lying within the territory of Virginia, and these grants, owing to a total ignorance of the topography and circumstances of the country, frequently included the estates of actual settlers, and of some of the oldest planters in the colony.

IN the midst of their other misfortunes, to be threatened with the loss of property they'd reclaimed from the wilderness, and in the improvement of which the labor of years had been expended, excited uneasiness and indignation. These grants had lain dormant for a considerable time,

owing to the fears of the king or the policy of the patentees. The secret at length found its way into Virginia, and the legislature came to a resolution to present a strong remonstrance to the king, against their constitutionality and policy : It was prudently determined at the same time, if the appeal to the sovereign should be found ineffectual, to attempt the purchase of their right from the patentees, provided it could be effected on any reasonable terms.

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THE management of those various and important concerns, required the presence of an agent or agents on the spot, to watch the favorable moments of access to the levees of courtiers, and to be at hand to explain any doubtful part, or remove any cavil or objection in the discussion. A committee was appointed to treat with the governor about the choice of suitable persons for the discharge of those arduous duties ; and a perfect disposition being found in all parties to co-operate on these occasions, Thomas Ludwell, secretary of state, Francis Morryson, several times speaker of assembly, and the governor's deputy during his late absence in England, and Robert Smith, a general of militia, were immediately appointed.

In order to create a fund for defraying the charges of this mission, an extra tax of fifty pounds of tobacco for each poll was directed to be raised, and it was considered as a melancholy aggravation of the public distress, that the very evils of which they complained, became the causes of new burdens and impositions on the people.

REGULATIONS were enacted to prevent the severity of creditors during the existing stagnation of commerce and industry ; and for a farther relief, it was directed that public and county debts, fees of office, quitrents, &c. should be paid for

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in the natural commodities of the country, according to a scale of rates established by the assembly.

I FIND in the acts of the following year that colonel John Washington and several others, had made locations on the lands assigned to the Rappahannocks and their allies and brothers the Nanzaticos, living on the borders of Rappahannock and Lancaster, which were set aside until those Indians should desert the lands in question, at which time they were allowed to take effect.

ACCORDING to a late biographer, colonel Washington had arrived about nine years before, from the north of England, where he was born; and he in all probability a short time after his arrival, had taken out a patent for the lands in question. There is ground to conjecture that he was a land surveyor; a profession, which from the increase of population, the imperfect knowledge of the country, and the conflicting claims of adventurers, was doubtless at once profitable and honorable.

THE merits of colonel Washington must have been conspicuous even at this early period of his residence; since on the records he bears the rank of lieutenant colonel of militia. His name also appears among the burgesses of this year, and on the most important committees. Such is the origin of a man, whose name will endure as long as the world which he has improved and adorned by his virtues....and to the mind curious in tracing the connection between cause and effect, the idea may suggest itself that to this profession, transmitted to his son, and thence to his grand-son, is perhaps owing the capture of a British army more than a century after, at York Town.

SINCE the restoration a practice had crept into the parliamentary proceedings of the assembly, which if admitted to go into a precedent, might

produce very dangerous consequences to the independence of that body. In every important business that came before the house, it had been usual to evidence at once their attachment; and their confidence in the governor, by soliciting the advice and co-operation of one or more of his council, in maturing the reports of their committees.

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EMBOLDENED by a practice, which had hitherto excited no fears or suspicions, and relying perhaps on the general attachment, he proceeded a step farther, and signified his pleasure that two or more of his council might be permitted to join with the house in granting and confirming the sum of the public levy.

THE word confirming, which related to executive duties, was here artfully coupled with granting, which was plainly a right of the legislature: and as the council formed a part of the executive, the word confirming might be supposed as intending to designate the sphere of their duties, while the assembly would imagine themselves still possessed of the sole power of granting supplies. But the assembly immediately saw through this awkward attempt to destroy the only efficient check they possessed on the executive.

THEIR language is worth preserving on this occasion. They state as their humble answer, "that they conceive it their privilege to lay the levy in the house; and they will admit nothing in reference from the honorable governor and council, unless it be before adjudged and confirmed by act or order, and after passing in the house, shall be presented to their honors for their approbation or dissent." The governor's reply to the committee who waited on him with this

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resolution, is too singular to be omitted : " This," said he " is willingly assented to, and desired to remain on record for a rule to walk by for the future, which will be satisfactory to all."

SUCH was the fate of a project that can scarcely be reprehended with too much severity.

HOWEVER the governor might have been desirous of disguising his feelings under the smiles and language of a courtier, his disappointment and mortification at this first opposition to his wishes, were deep and poignant.

IN fact the conduct of the governor had been generous, and even munificent to Virginia; a considerable portion of his private fortune having been expended in projects for her improvement and embellishment. And never was a man better compensated by the gratitude and affections of the people. As some compensation for his losses during the revolution, and with the view of expressing their deep sense of his virtues and services, the assembly had added two hundred pounds per annum to his salary, and the value of the donation was enhanced by a proviso limiting this addition to his death. The people at large shared in the respect and veneration of their representatives; and were wont to regard him as the model of every thing that was excellent in principles and amiable in manners. His very age contributed to keep alive their attachment. He had grown old amongst them, and time appeared to have taken nothing from the ardor of his mind, or the graces of his manner.

THE vice of the governor's mind was haughtiness: a lofty opinion of his own consequence. His opinion of others was directed less by judgment than by prejudice or caprice: and as he thought his services above all price and beyond all praise, flattery was the shortest road to his fa-

vor. His very condescension had an air of haughtiness that repelled the moment it invited ; his liberality might be often traced to his pride and ostentation.

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THESE defects were doubtless observed by those, who were closely conversant with his character ; but they appeared to be covered by a croud of virtues ; and it had been so long the fashion to suppose him faultless, that the bare mention of them would be considered as a cynical discontent ; the poison of envy and disaffection.

NOT a single dispute, and scarcely any difference of opinion had existed between him and the legislature during the five and twenty years he had been in the colony. He succeeded an odious tyranny, who had plundered and insulted the colony ; and it was due to his reputation and policy to present an entire contrast of a man, whose name was universally regarded as a reproach.... This was the secret of his boasted urbanity. The assembly ‘anticipated all his wants : They were profuse of their praises and acknowledgments. He had no motives for acting with the least impropriety : He was never opposed or even contradicted. No wonder then that sir W. Berkeley should have been mild and amiable.

His displeasure at the assembly’s dissent to his late proposal, was first disclosed in the discourses of his favorites, who from their obsequious devotion, began about this time to be called the court party. This description of men, who are always to be found basking in the warmth of vanity and power, and whose influence becomes stronger in proportion to the weakness and infirmities of their patron, had formed a sort of life guard about the aged governor, and in the midst of the most unequivocal proofs of public attachment, were continually complaining of the un-

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grateful and disobliging spirit to so great and good a governor. On this occasion they mentioned with affected sorrow the governor's uneasiness at the unseasonable jealousy of the legislature manifested in their late opposition.

SOME expressions too said to have been used by the governor, of a nature personally disrespectful to several influential members were reported, which laid the seeds of those violent animosities that afterwards produced so much mischief to the colony.

THE house of burgesses, which notwithstanding the visible change in his temper and capacity, really respected the governor, at the close of the session presented an address calculated to soothe any irritation by its warm and affectionate language. A gracious answer was returned: But the sting of wounded vanity remained, and those professions were considered as mere emollients which mitigated the pain, but could not remove the seat of the disease.

SEVERAL acts of a nature interesting to the civilian, and some not beneath the notice of history, were passed during this session. To silence the fears of the masters, and (as the preamble states) to induce them more carefully to propagate christianity among their slaves, it was enacted, that baptism "did not exempt them from bondage."

AN act for building forts in the principal rivers, passed after considerable opposition. This measure was in obedience to the king's recommendation, and was intended as a permanent security against invasion, and a means of giving effect to the act in favor of towns, by compelling the ships to deliver their cargoes at certain places, and to prevent contraband trade, by making them ride under their guns.

BUT the circumstances of the colony did not permit them to launch out into an expence equal to an object, the advantages of which appeared to them at best but remote and doubtful.

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AN invasion* by the Dutch during this year, and the surprizal of several ships in James river, enabled the governor at length to carry this point, which was productive of such mischief and confusion, against the sense and circumstances of the colony.

In order to divert the minds of the people from their present distresses, the governor planned an expedition of discovery among the Indians. The notice of this event is preserved by Beverley alone, and is given in his words. The records are entirely silent on the subject.

"For this end he employed a small company of about fourteen English, and as many Indians, under the command of captain Henry Batt, to go upon such an adventure. They set out together from Appamattox, and in seven days march reached the foot of the mountains. The mountains they first arrived at, were not extraordinary high or steep; but, after they had passed the first ridge, they encountered others, that seemed to reach the clouds, and were so perpendicular and full of precipices, that some times in a whole day's march, they could not march three miles in a direct line. In other places they found large level plains, and fine Savanna's, three or four miles wide, in which were an infinite quantity of turkies, deer, elks, and buffaloes, so gentle and undisturbed, that they had no fear at the appearance

* About this time they sustained some damage by the Dutch war; for which reason they ordered the forts to be rebuilt of brick.

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of the men: But would suffer them to come almost within reach of their hands. There they also found grapes so prodigiously large, that they seemed more like bullace than grapes. When they traversed these mountains, they came to a fine level country again, and came to a rivulet that descended backwards. Down that stream they travelled several days, till they came to old fields and cabbins, where the Indians had lately been; but were supposed to have fled at the approach of Batt and his company. However the captain followed the old rule of leaving some toys in their cabbins, for them to find at their return, by which they might know they were friends. Near to these cabbins were great marshes; where the Indians which captain Batt had with him, made a halt, and would positively proceed no farther. They said, that not far off from that place lived a nation of Indians, that made salt, and sold it to their neighbors. That this was a great and powerful people, which never suffered any strangers to return, that had once discovered their towns. Captain Batt used all the arguments he could to get them forward, but in vain. And so, to please those timorous Indians, the hopes of this discovery were frustrated, and the detachment was forced to return. In this journey it is supposed that Batt never crossed the great ridge of mountains, but kept up under it to the southward. For of late years the Indian traders have discovered, on this side the mountains, about five hundred miles to the southward, a river they call Oukfuskie, full of broad sunken grounds and marshes, but falling into the bay or great gulf between Cape Florida and the mouth of the Mississippi, which I suppose to be the river where Batt saw the Indian cabbins and marshes, but is gone to from Virginia without ever piercing

the high mountains, and only encountering the point of an elbow, which they make a little to the southward of Virginia.

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“ UPON captain Batt’s report to sir William Berkeley, he resolved to make a journey himself; that so there might be no hindrance for want of sufficient authority, as had been in the aforesaid expedition. To this end he concerted matters for it, and had pitched upon his deputy-governor. The assembly also made an act to encourage it. But all these preparations came to nothing, by the confusion which happened there soon after by Bacon’s rebellion. And since that, there has never been any such discovery attempted from Virginia, when governor Spotswood found a passage over the great ridge of mountains, and went over them himself.”

BUT the public discontents were too deeply seated to be appeased by any partial and temporary expedients. Partial insurrections broke out in several counties at the same time. These were manifestly without any concert, and they were palpably deficient in every thing relating to system and arrangement. They were animated by the zeal and talents of no distinguished character; but they bespoke the extent and virulence of the public disaffection.

THIS state of things, added to the great age of the governor, possibly induced the court of England to send over sir H. Chicherly as lieutenant-governor and general of the colony of Virginia. His commission is dated this year, and he appears in the early part of the following on the theatre of Virginia. In the same year, a new commission, with ample powers, was made out for the agents of the colony in England, and from this moment a regular treaty was carried on between the king and patentees for the purchase and recon-

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1674. very of the grants; and for the more interesting purpose of procuring a more perfect charter and constitution for Virginia.

THE discussion of those important concerns is preserved in the correspondence of the agents; and it is impossible to read it without feeling surprise at the sagacity and vigor of these untaught ambassadors. Their perusal would instantly dissipate the imputations against the patriotism of Virginia, and establish beyond all question her unceasing attachment to liberty, and her correct and manly notions of independence. Great indeed must have been the union of truth and talents which could have extorted from a court and king so hostile to liberty, the acknowledgment of the justice of those claims.

WE are informed by Beverley, and indeed it appears on the face of the state records, that a charter was made out agreeable to the wishes of the agents and the colony: But that owing to some sudden jealousies it was stopt in the hamper office, from whence no solicitations could after procure its release. The rebellion which immediately succeeded, by seeming to confirm their jealousies, determined the court to violate all their engagements, by cancelling this instrument, and that insecure and partial charter was substituted, which left the privileges of the colony in a great measure at the mercy of the crown, and gave occasion afterwards to those struggles between the people and their governors, which disturbed the public repose, and finally produced such eventful consequences to America and the world.

CHAPTER IV.

Circumstances of colony about this time—Incursions of the Indians—Made the pretext for the rebellion—Real causes of this event—Insurgents make choice of Nathaniel Bacon as their general—He marches against Indians—Governor pursues him to the falls of James River—Is forced to return by report of a new insurrection in the lower counties, under Ingram and Walklate—Is compelled to dismantle the forts, and dissolve the assembly which voted for their erection—Bacon returns victorious from his Indian expedition—Proceeds with a few followers to James-Town—Is taken by captain Gardiner, and sent prisoner to the governor, who restores him to freedom, and admits him to his seat in council—Bacon steals privately out of town and joins his associates—Inflames them by an harangue and leads them to James Town—Surrounds the assembly—Purchases the commission of general; and letters to the king, justifying his conduct—Marches against Indians—Governor's disgust and mortification—He dissolves the assembly—Proclaims Bacon and his followers rebels—Gloster petitions—He raises in that county the royal standard; but being close pressed retires to Accomac—Surprises the rebel navy under Bland and Carver, and with 600 volunteers returns and takes James-Town—Bacon again returns from his Indian expedition

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and besieges the governor in the island—The garrison makes a sally, but is beaten back by Bacon—Governor with his followers goes on board his fleet—Bacon enters the town and sets fire to it—Calls a convention at middle plantation—His death and character.

CHAPTER IV.

THE several causes of discontent long nourished in secret, or manifesting themselves in partial riots and insurrections, were now fully matured, and the slightest incident was sufficient to precipitate them into rebellion. The colony had now reached that crisis in the political malady, when all ranks and classes are equally affected with the public grievances and oppressions, and impatiently longed for an occasion, by one great and violent effort, to burst their chains and assert their independence....In this state of exasperation, a pretext could not long be wanting, and it seemed matter of inferior consideration, whether the occasion was in itself great and important: The ingénuity of self love could easily wrest the most unlikely incidents to its favor, leaving to fortune and courage the task afterwards to ennable and exalt them.

SINCE the death of Opechancanough, the Indians deprived of the benefits of a federative concert, had made but few attempts to disturb the tranquility of the colony. Several of the tribes had retired westward, and those which remained, reduced in their numbers and wanting concert, lingered on the frontiers, and exchanged their superfluous productions at stated marts with their former enemies. A long peace, added to a deportment almost invariably pacific, had in a great measure relaxed the vigilance of the colonists;

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and the Indians were admitted to a free intercourse with the people of all the counties. It was scarcely to be expected that during an intercourse so irregular and extensive, no grounds of uneasiness should exist. Several thefts had been committed on the tobacco, corn, and other property of the colonists, and the friendly Indians were formally charged with having committed the felonies. The accusation was heard with the utmost coolness and indifference. They stated that the Tuscaroras* and other foreign tribes who were invited to trade with Virginia, on their return from Mahadoes, trusting to the general resemblance, had made use of their name to insinuate themselves among the colonists, and were the actual perpetrators of the excesses which had been complained of.

THIS representation appeared to have given full satisfaction, and regulations were adopted by the assembly for distinguishing the peaceful tribes by badges, and for confining to proper marts on the frontiers, the trade with the roving Indians.

BUT the English having taken Monadas,† they were desirous of monopolizing the whole of this trade, and forgetting as well their duties as Englishmen as the principles of honesty, they labored to infuse into the minds of the Indians, jealousies and suspicions of the people of Virginia, representing them as pirates and outlaws, and particularly as enemies to the whole Indian race, whom they wanted nothing but power wholly to destroy and exterminate.

* In captain Smith's time known by the name of Manakins and Manahoacs.

† Indian name for the island whereon New-York stands.

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cursions.

THESE representations often repeated and enforced by that seeming indifference, which avarice knows so well how to assume, had at length the desired effect. The Indians at the head of the bay of Chesapeake, and the tribes farther to the south, in their journey by the frontiers of Virginia, made sudden and furious inroads, and their route was generally marked by devastation and blood. It was suspected at this time, that the neighboring Indians had secretly instigated these new invaders, and it was apprehended that a new and more extensive conspiracy of this people was on the point of exploding. According to the treaty of 1645, the Indians of Virginia were bound to aid the colonists offensively and defensively, yet they had neither apprized them of their onset nor had endeavored to cut off their retreat.

AT any other time, or in any other state of circumstances, this presumption would have been too weak to warrant any other measures beside an increase of vigilance and a more regular police; but in the present fever of mens' minds, it was thought sufficient to justify the most ungovernable indignation, and sanction the most illegal excesses.

THE unfortunate issue of the English revolution, as well as their long established habits of loyalty, deterred the people of Virginia from meeting the representative of their sovereign in open and unmasked rebellion; and an occasion was now greedily laid hold of, when under color of liberty and the imposing plea of self preservation, they could give utterance and effect to their resentments.

As if to favor the present wishes of the people, accounts arrived of fresh acts of violence committed by the Indians, attended by such circumstances of wanton, unprovoked, and unnecessary cruelty, as spread into a blaze the long smothered

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fire of discontent....The people immediately flew to arms, and although no previous concert or correspondence had taken place, the popular movement was rapid, general, and consentaneous. From this moment all scruples and reserve were laid aside. Feeling their power in the union of enthusiasm and numbers, they repeated to each other the afflicting catalogue of their miseries and oppressions : At every recital, indignation would add some new item to the account ; until at length the daring spirit of popular invective, vast and undefined in its scope and projects, and disdaining the check of calculations and consequences, by constantly brooding over the several subjects of grievance, exhibited a picture of public distress and governmental tyranny, sufficient to harrow up every soul with horror, or enflame it with indignation.

BEFORE a movement like this, the voice of the law was too feeble to be heard, and the energies of government were paralized. The magistrates and influential characters, whose duty it was to check in its embrio state the progress of insurrection, either directed its torrent or were hurried violently on in its course : Nor did the evil stop here : the executive and legislative branches manifested decided symptoms of the general contagion, and the cancer of division was eating its way into the life and soul of the government.

Insurgents choose Nathaniel Bacon, in general AFTER the first burst of passion had made way for reflection, the people looked round for a leader sufficiently conspicuous for talents and influence to sanction and direct their proceedings, and their eyes were almost immediately directed towards a person every way suited to their purpose. Nathaniel Bacon, a youth of engaging manners, and of a countenance and figure the most engaging and prepossessing, had improved fine

natural parts by the discipline of a classical education in England. After having laid in a competent stock of general learning, he had given a professional direction to his mind, by passing the necessary number of terms at the inns of courts, and he arrived in Virginia with the reputation of commanding talents and considerable legal erudition....In a country, where there were no colleges and scarcely a school where the first elements of language could be acquired; where there were no lawyers, and scarcely any knowledge of the science of jurisprudence, it will be easily imagined in what respect and estimation acquirements like those of Mr. Bacon would be regarded. After a short probation he was admitted to a seat in the council, and at the period we are now describing, he was second to no one in the colony in figure and estimation.

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ATTRACTED either by curiosity or led by the public sympathy, which at this time appeared to be general, he had mixed in the crowd: But whatever might have been his object, he for some time cautiously preserved that guarded silence and reserve befitting his character and situation. Possibly he was desirous of ascertaining what reliance might be placed on the constancy of the people before he declared himself. But the moment the attention of the multitude became decidedly fixed on him and he was with loud shouts proclaimed their leader, his reserve vanished:... The suggestions of cautious policy were drowned in the shouts of the people, or lost in the eclat of being regarded as one of the asserters of human rights and a leader of the armies of freedom.

It has been suggested that his motives* were of a less enlarged and disinterested nature. But

* See Beverley.

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these charges could have been made only by men unacquainted with the circumstances of Virginia. For any purposes of fortune or advancement, Bacon could not be benefited by a civil war. He might lose much, but could not possibly add to his power and consideration. We must not then regard him as the desperate adventurer, a bankrupt in fortune and reputation: But a youth amiable and popular; of bright hopes and shining talents, and already advanced to the first offices in the government. He might have mistaken the true interest of his country. He may perhaps incur the charge of rashness and indiscretion: But it is not possible, with a full knowledge of all the circumstances, to doubt either his honesty or sincerity.

THE first care of Mr. Bacon, after he had consented to accept the command thus unanimously conferred on him, was to confirm the tumultuous spirits of his followers, and with this view he addressed them in a speech of considerable length, and full of that bold and vehement spirit, which spreads like a fire in popular assemblies. He took a wide and detailed view of the grievances of Virginia since the restoration. The several acts of parliament for restricting the commerce of Virginia, he represented as regulations the most severe, arbitrary, and unconstitutional; an ungracious and ungrateful return for her gallant and perilous loyalty.* He touched on the enormous

* The report of this harangue although perhaps it contain not a single sentence constructed as it was pronounced by Bacon, and possibly too may differ widely from its order and arrangement, is precise and accurate, so far as it details the true grounds of uneasiness, and a reference will be found for every material allegation. I would not impose it on the public as a report of a speech which has been preserved; but of facts all of which are well authenticated, and which were

and illegal grants of the territory of Virginia by the king to his favorites, and the excessive taxes* with which the people were loaded, in order to purchase the release and restoration of the territory. But these impositions were not sufficient. A number of forts† which every day's experience proved to be useless and inadequate, must be maintained in obedience to the king's instructions, and the wretched and oppressed people compelled to furnish means for feeding so many nurseries of military despotism.

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THE political condition of the colony, as being the strongest point, furnished a copious theme for declamation. There was a time he said when every adventurer was a freeman ;‡ and the assemblies, daringly just to their constituents, scrupled not to contend with majesty itself in defence of their chartered and natural rights : But how melancholy and mortifying was the contrast, which Virginia at this time afforded. An unnatural distinction was attempted to be drawn by pride and oppression between the freemen and freeholders of the country ; and the former, who formed a large and respectable class, were cheated with the name and

certainly the grounds of the harangue. The disappointment of the Virginians at the ungracious return for their supposed loyalty, had manifested itself on various occasions, and increased with every new restriction on their trade.... It had been instrumental in producing the conspiracy in 1663, and the partial insurrection of '674. It produced a remonstrance of the grand assembly. It is farther proved by the petition of the people of Accomac to sir W. Berkeley, and by the letters of Giles Bland, and the king's commissioners.

See Appendix.

* *Beverley*—Ancient records. † *Beverley*.

‡ See first charters and the general usage.

W

CHAP. shadow of liberty, while the latter bore away whatever little remained from the wreck of better days and ampler privileges. But in this respect he stated there was little room for envy; the pitiful remnant was not worth a contest...they were all slaves...the public oppression bore equally hard on all, with this exception, that as the taxes were paid by poll,* the poor paid as much as the rich. Another evidence of the want of judgment and honesty in the assessors.

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THUS added he, the right of suffrage, which was coeval with the existence of the colony, which had lived through the arbitrary reign of James, and with a short interruption, through that of the first Charles; which was again revived during the commonwealth, and was considered too sacred to be touched even by the impure hands of the Protector, was sacrilegiously stolen during a season of peace and security.

FROM these topics, Bacon passed to the more immediate and ostensible causes of their meeting: The invasion† of the Indians and the unaccountable neglect or imbecility of government, during a crisis so pregnant with peril. No measures had been adopted for the public defence. The late disbanding of the militia raised for this purpose under sir H. Chicherley,‡ and the present refusal of the governor to grant a new commission, he ascribed solely to a desperate resolution to continue the present grievous oppressions, even though his object could not be effected but by the utter ruin and extermination of the people....He con-

* The constant practice during the existence of colony.

† See the historical letters in Appendix.

‡ Ancient records.

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cluded by declaring his resolution never to lay down his arms until these grievances were redressed, and the security of the people was established; and he demanded from his hearers a solemn assurance* of their support and fidelity.

THIS speech was received with loud shouts, and having solemnly pledged themselves never to desert their leader, preparations immediately commenced for an expedition against the Indians. Meanwhile a declaration† was published with the signature of Bacon, setting forth at large the various grounds of public discontent, and the motives of the present rising. That nothing might appear wanting to the justice of their cause, Bacon dispatched a messenger to the governor, stating all the material circumstances of the insurrection, and acquainting him with his own appointment, and conjuring him to gratify the wishes of the people, who in their present temper were not to be restrained by any motives of loyalty or attachment.

THE reputation of Bacon was so high, that the governor did not think it prudent to send a direct refusal to this message. He pretended he could not decide on a matter so unusual and important, without the advice of his council; a meeting of which he promised immediately to summon, and to forward the result with all possible dispatch to Mr. Bacon. He concluded a letter full of polite and complimentary expressions, by artfully hinting at the alarming tendency of the present measures, and how much the fortune and character of Mr. Bacon would be influenced by the issue of this dispute.‡

* Ancient records.

† *Ibidem.*‡ *Ibidem.*

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BUT this veil was too thin to impose on Bacon, and his preparations being now completed, he proceeded with a choice body of near 600 men, to take vengeance on these hostile tribes, whose depredations and barbarities had lighted up the public vengeance and indignation.* Still he was desirous of covering his views by a shew of deference and submission to the constituted authority, and pretending to consider the answer of the governor as a promise of the commission, he dispatched several messengers to James-Town, to hasten what he affected to think so essential to the security of the colony, and to his own justification.†

Governor proclaims Bacon and his followers rebels.

BUT the proud spirit of the ancient cavalier, was at length roused, and he disdained to temporise any longer with rebels and traitors. Instead of the commission, which was presumptuously demanded, he issued a proclamation commanding Bacon and his party immediately to disperse, on pain of being punished as mutineers and traitors. He did not stop here. He knew that the authority of government had lost that reverence and respect which during a season of tranquility were sufficient to sustain it without military aid, and having collected all the rich land proprietors, and such as yet remained free from the contagion of revolt, he pursued the insurgents.† He had scarcely reached the falls of James river, when intelligence reached him of a new and more formidable rising in the neighborhood of James-City; and seeing no prospect of attaining his object, and his followers being worn down by the fatigues of a long and rapid march; after a short consultati-

Pursues them to the falls of James river

* Ancient records.

† *Ibidem.*

‡ *Ibidem.*

on, he faced about, and proceeded with the utmost dispatch to the defence of the capital.*

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His arrival at James-City disclosed to him clearly the extent and views of the rebellion. During his absence the inhabitants of the lower and central counties had risen under the conduct of Ingram and Walklate, and were actually exercising the duties and powers of government. Whatever was dictated by these leaders, had immediately the force of law; and he found his authority of thirty years standing, and which he supposed built on the most durable of all foundations, the affections of the people, overturned in a moment, or reduced to a shadow,* by a sudden and unlooked for revolution of public opinion.

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THE several grounds of complaint which had been set forth in Bacon's declaration, were urged anew by these leaders, and they demanded the immediate dissolution of the assembly, which had been base enough to countenance such proceedings as the first step towards restoring peace and tranquility.†

IN this emergence the haughty spirit of the governor was compelled to stoop to concession. Resistance would have been not merely useless: It would have probably involved in his own ruin that of the government and the colony. He therefore resolved to make a merit of necessity, and at this late period, agree to do that, which if it had been done in the commencement of the dispute, had stopt the growth and progress of discontent. The forts were immediately ordered to be dismantled, the old assembly was dissolved, and writs were immediately issued for a new election.‡

* It was almost entirely deserted.

† Ancient records.

‡ *Ibidem.*

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IT is a curious circumstance in the history of revolutions, that every concession after the public discontents have reached a certain stage, serves but to stimulate and enflame it; And this disposition, which by Mr. Hume is represented as an evidence of the ingratitude and depravity of the people, is in fact the natural result of the powers and faculty of the mind. Little is sufficient for the support and sustenance of man, and he is content with the scanty allowance, which his lot affords him: But give him a taste of better fare, and convince him that he has a natural and equitable right to a free participation in all the rich and varied bounties of nature, and if he have but an assurance of support he will be bold in asserting his right to the whole of his privileges,

THE election terminated as was naturally to be expected, in the triumph of the malcontents; and to complete the mortification of the governor, Bacon, and Brewse, a character equally obnoxious, were returned members for Henrico county.*

MEANWHILE Bacon had fallen by surprise on some of the towns and settlements of the suspected Indians, and made a considerable number of captives. He was returning slowly† in a sort of triumphal procession with his Indian captives in the centre, when intelligence reached him of the late revolution, and he immediately formed the resolution of proceeding to James-Town, attended only by a few followers, in order to procure the reversal of his attainder. The eclat of his Indian victories, added to the present formidable juncture of affairs, would, he doubted not, dispose the governor to moderation, and having embarked forty of his soldiers well armed in

* Ancient records.

a sloop, he left his army and sailed down the river.*

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THIS measure does not seem to have been adopted or executed with his usual prudence and good fortune. The river was at this time full of English ships, whose commanders had taken an active part in support of the government, and one of these ships, commanded by captain Gardiner, was cruising to intercept him. As soon as the sloop hove in sight, Gardiner made all sail to cut her off from the land, and notwithstanding all the exertions made by Bacon's followers, and he himself had got on board a boat, he was overtaken and sent by Gardiner a prisoner to James-Town.†

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FORTUNATELY for Bacon, the report of his Indian victory had gone before him, painted with her usual blazon by fame, and exaggerated by the partial descriptions of the disaffected. The occasion seemed favorable to the governor to conciliate, by an act of clemency, the dispositions of the people, and to bind his enemy to him by kindnesss and good offices. Sir W. Berkeley appears notwithstanding his reputation, to have been little acquainted with the heart of man, and the subtle casuistry of the passions. The act of attainder was immediately reversed, and Bacon, having given his parole, was admitted to his seat in the council of Virginia.‡

DURING the time these events were passing, there prevailed a report that Bacon's parole was given under a solemn assurance from the governor, that his commission would be made out in a few days. It is the duty of history to admit that this

* Ancient records.

† *Ibidem.*

‡ *Ibidem.*

¶ *Ibidem.*

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1675. report was positively contradicted by sir William Berkeley and his party, and on a full view of all the circumstances,* I can find nothing brought forward on either side to substantiate their assertions.

IT is certainly much easier to suppose that Bacon should countenance such a report, which justifies the breach of his engagement, than that sir W. Berkeley, whose nice principles of honor had ever been without reproach, should with scarcely any motive have advanced a direct falsehood. Such a promise had moreover been inconsistent with the character of his mind and the invariable tenor of his administration. Scarcely ever even in the greatest difficulties did his haughty spirit stoop to any thing like accommodation or compromise.

1676. BACON having joined his army, acquaints them with the duplicity of the governor and his invariable obstinacy in refusing that redress, which was due to their courage and sufferings. At the same time he artfully mentioned his own distresses and dangers, dangers which he had encountered for his attachment to their cause. He did not speak thus, he said, to enhance the value of his services: The sacrifice he had made of rank and affluence, and his own personal sufferings, being in his estimation light, when compared with the public grievances and oppressions.†

THE impatience of the people with difficulty waited for the conclusion of this address. They demanded to be immediately led to James-Town, promising that they would compel by force that justice which had so long been denied to their just petitions and remonstrance.‡

* Ancient records.

† Ancient records—Breviare and Conclusum.

‡ *Ibidem.* ¶ *Ibidem.*

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BACON had too much judgment to permit their ardor to cool by delay. He immediately broke up his camp, and having marched all night, he surprised James-Town early the next day, and having drawn up his troops before the state-house whilst the assembly was sitting, he urged to that body, a majority of whom he knew to be well affected to his cause, the necessity of an immediate decision on a point at once so essential to the public safety, and the security of government.*

THE governor received the account of this violence with feelings of the strongest indignation, and when the committee of burgesses waited on him with an earnest request from that body that he would be pleased to put an end to the public disorders, by acceding to the wishes of the people, he for a long time peremptorily† refused to lend his name to give what he considered a sanction and authority to rebellion.‡

BUT the importunities of the assembly being at length backed by the advice of his council, and seeing no prospect of appeasing the public agitation, he reluctantly consented to sign the act of indemnity; and a commission of general for Bacon, which with several other papers had been drafted by the assembly.¶

AMPLE as were the powers contained in these instruments, the friends of Bacon who were a decided majority in the house, did not think them sufficient, and as if to consummate the humiliation of the governor, they procured his signature

* Ancient records.

† He exposed his naked breast to the insurgents.

‡ Ancient records.

¶ *Ibidem.*

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to a letter to the king, signed by themselves and the council, warmly approving the conduct of Bacon, and recommending him to his majesty as a gentleman, whose zeal, talents, and activity, had been eminently exerted for the good of the colony.*

BACON having thus fully succeeded in this favorite object, marched out of town at the head of his soldiers, and directed his route towards the frontiers.

SIR Wm. Berkeley lowered in his own estimation by the gross violence, which had been offered to his person and dignity, resolved to retire from James-Town, having previously dissolved† the assembly, which had been necessary to his disgrace and humiliation. His reasons for this measure appear to be just and substantial. He knew that a majority of the members were disaffected to his government, and he apprehended that they would proceed regularly to a thorough investigation of the whole catalogue of grievances, and that he should be again importuned to give his sanction to measures the most obnoxious to his feelings and principles, or by his refusal increase the public agitation.‡

HE would have immediately disavowed the late proceedings as being extorted from him by violence, contrary to the dictates of his judgment, and his sense of his own dignity. But there appeared as yet no place sufficiently free from the contagion of rebellion, whereon to place the standard of legal authority.

* Ancient records.

† See paper Breviare and conclusum.

‡ *Ibidem.*

Dissolves
assembly.

HE was relieved from this perplexity by a petition from the loyal inhabitants of Gloster county, praying that he would honor them by fixing his residence amongst them, during the existence of the present unhappy disputes, and promising to defend him at the hazard of their lives and fortunes.*

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IMMEDIATELY on the receipt of this petition, the governor issued a proclamation declaring Bacon a rebel, and commanding his followers to deliver him up, and disperse themselves peaceably, on pain of being punished as traitors. After this he raised the loyal standard in Gloster county, and called on the friends of order and good government to rally round him.†

BACON having received immediate intelligence of this movement by the means of Lawrence and Drummond, two popular persons, wheeled about and proceeded by forced marches to attack the governor, before he could be reinforced. But the loyal inhabitants had been disarmed by Bacon at the commencement of these disputes, and sir W. Berkeley unwilling to expose the generous enthusiasm of his friends to certain destruction, withdrew himself privately with a few friends, on whom he could rely, and took refuge at Accomac.‡

BACON had not gained the object of his unceasing solicitude, and he did not think of pursuing the governor. Accomac, although subject to the government of Virginia, was nominally a distinct territory. He was now in possession of

* See vindication of sir William Berkeley in Appendix and the Breviare.

CHAP. the seat of government, and by his commission
IV. of general, as well as the affections of the people,
1676. he could command the whole resources of the
 country.

Bacon calls UNDER pretence that sir W. Berkeley had ab-
 a conventi- dicated his government by withdrawing to this
 on. place, he called a convention of the most influen-
 tial characters from all parts of the colony, in or-
 der that he might appear to give the sanction of
 the people to whatever measures he should in fu-
 ture be compelled by circumstances to adopt.

August 3. THIS convention, which met at Middle Plan-
 plantation, and determined that by the abdication of
 sir W. Berkeley, the government was vacant,
 and that according to the invariable usage of the
 country, the council or the people might supply
 this vacancy, until the king's pleasure could be
 known. In conformity with this opinion, Bacon
 immediately summoned an assembly by writs,
 signed by himself and four other members of the
 council.*

**Declaration
of this body**

IT is curious to observe the close resemblance
 between the opinion of this convention and that
 delivered in England twelve years after, by a bo-
 dy stiling themselves a convention of the English
 people. It is worth while observing too, both
 conventions were composed almost exclusively
 of the adherents of the dominant party, and the
 same labored casuistry appears in the arguments
 of each, to reconcile their proceedings with the
 spirit of their respective constitutions ; as if a na-
 tion owes any apology for the resumption of the
 powers it has delegated, and which have been fla-
 grantly abused. The insurrection, as well as the
 tyranny which it excites, are alike infractions of a

* Ancient records.

constitution, and from the moment that either of the parties in the contract has transgressed its legal limits, the instrument becomes a mere nullity, and loses that reverence and respect which should preserve it against the silent arts of corruption, or the mad excesses of a mob. Instead then of attempting to measuring their conduct by a standard which has been destroyed, nations shoud search for models in reason and nature, leaving to schoolmen and sophists the task of concealing truth under the jargon of an obscure and unintelligible logic.

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In addition to this opinion, so essential to the views and the justification of Bacon, a string of resolutions was adopted, which in their spirit and language bear so close a resemblance to the public declarations of the American confederacy, exactly a century after that, the coincidence can scarcely be accidental. They state that,

" WHEREAS the country hath raised an army Declaration
against our common enemy the Indians, and the of conven-
same under the command of general Bacon, be-
ing upon the point to march forth against the said
common enemy, hath been diverted and neces-
sitated to move to the suppressing of forces by
evil disposed persons raised against general Ba-
con, purposely to foment and stir up civil war
among us, to the ruin of this his majesty's coun-
try :

" AND whereas it is notoriously manifest, that sir William Berkeley, knight, governor of the country aforesaid, assisted, counselled, and abetted by those evil disposed persons aforesaid, hath not only commanded, fomented, and stirred up the people to the said civil war; but failing therein, had withdrawn himself to the great astonishment of the people and the unselement of the country.

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" AND whereas the said army raised by the country for the causes aforesaid, remain full of dissatisfaction in the middle of the country, expecting attempts from the said country and the counsellors aforesaid, and since no proper means have been found out for the settlement of the distractions and preventing the horrid outrages and murders daily committed in many places of the country by the barbarous enemy, it hath been thought fit by the said general to call unto him all such sober and discreet gentlemen, as the present circumstances of the country will admit, to the Middle Plantation, to consult and advise of re-establishing the peace of the country.

" So we the said gentlemen, being this third of August, 1676, accordingly met, do advise, resolve, declare, and conclude, and for ourselves do swear in manner following :

" 1st. THAT we will at all times join with the said general Bacon and his army, against the common enemy in all points whatsoever.

" 2dly. THAT whereas certain persons have lately contrived and designed raising forces against the said general and the army under his command, thereby to beget a civil war ; we will endeavor the discovery and apprehending of all and every of those evil disposed persons, and them secure until further orders from the general.

" 3dly. AND whereas it is credibly reported that the governor hath informed the king's majesty, that the said general and the people of the country in arms under his command, their aiders and abettors are rebellious and removed from their allegiance ; and that upon such like information, he the said governor hath advised and petitioned the king to send forces to reduce them ; we do farther believe in our consciences, that it consists with the welfare of this country, and with our al-

legiance to his most sacred majesty, that we the inhabitants of Virginia to the utmost of our power do oppose and suppress all forces whatsoever of that nature; until such time as the king be fully informed of the state of the case by such person or persons, as shall be sent by the said Nathaniel Bacon, in the behalf of the people, and the determination thereof be remitted hither. And we do swear that we will him the said general, and the army under his command, aid and assist accordingly."

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BACON having now procured what looked like a regular and constitutional authority, proceeded to the accomplishment of his Indian expedition. His late partial attacks, added to the internal disorders, had again forced into a confederacy several nations that bordered on Virginia, and their united forces composed a body equally formidable by their numbers and animosity. They had gained several advantages since the retreat of Bacon, and these added to their barbarous mode of making war, and their shocking cruelties to their captives, had renewed the public terrors.

IT was incumbent on Bacon to remove these apprehensions. This had been principally instrumental in fomenting the civil war: He had been chosen general by the people, in the hope that his genius and courage would avert this evil from the colony. All eyes were fixed on him, and it was necessary that he should achieve something to justify the public expectation.

HAVING collected sufficient force, he proceeded to the Pamunkey, Chickahominy, and Mataponi towns, which, together with their corn, he destroyed, in retaliation of the late barbarities of the Indians. These tribes appear to have been apprized of this attack, and communicated the information with their usual celerity to the seve-

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ral nations in their rear. Their knowledge of the country enabled them to keep at a short distance in advance of the colonists, occasionally retreating and skirmishing, as circumstances demanded. Their object appears to be to decoy the Virginians towards the falls of James river, where a rendezvous had been appointed for the meeting of all their warriors, and where they hoped to be able to extinguish at a single blow, the strength of the colony.

THE boundary line between the Indians and colonists stretch from the mouth of Totopotomoi creek, where a fort had been established, to the falls of James river, intersecting Shockee creek, precisely at a point where mr. Bacon had a plantation.

Battle of Bloody run. THE battle took place about two miles and a half from this plantation, on the margin of a stream, which from the sanguinary nature of the conflict, has since been called Bloody Run.

Indians defeated.

THE main body of the Indians was posted on an eminence that overhung the stream, and were protected by a palisadoed fort: But the intrepid zeal of Bacon would not wait the tardy operations of a siege. Animated by his example, the Virginians broke into the fort, and a desperate slaughter ensued of the Indians huddled close together, and encumbered by their old men, their wives and children. Those who survived the first fury of an assault, were made captives, and a termination was given forever to the hopes of the Indians in this quarter.

MEANWHILE the governor encountered an opposition at Accomac,* which as it was totally

* See Breviare and Conclusun, and the vindication of sir W. Berkeley. Appendix.

1676.

unexpected, affected him with a concern little short of that he experienced from his other distresses. He had hoped that this corner naturally divided as it were from Virginia, and legally considered as a distinct territory,* by being more immediately under his controul, would be wholly free from the disease which afflicted Virginia.... His surprise and uneasiness may be easily conceived, when after a reception sufficiently cold and formal, the people of this territory presented to him a bold and spirited remonstrance against the several acts of parliament, for confining the trade of the colonies, and praying that their operation at least so far as it respected them, might be suspended.

THE situation of the governor exhibits a most embarrassing dilemma. To refuse, would be to crush the hopes and excite the disgust of a dawning loyalty, whose zeal was essential to his immediate security, and whose example might be beneficial. To grant their petition, would, on the other, seem like a justification and sanction to the proceedings of Bacon, and would serve a precedent for new demands and fresh concessions. We are not informed how he contrived to extricate himself from this embarrassment. To have made concessions so unusual during his distresses, is certainly inconsistent with the severe and inexorable character of his pride and loyalty; and yet it is difficult to conceive how he could have found security and fidelity amongst a people, whose just and determined demands he had peremptorily refused. His followers were so few, and his power and authority so reduced and fallen, that it is not possible he could have stilled their clamors by force.

* See Charters.

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Attempt to
surprise the
governor.

WITH the imperfect lights, which have survived, perhaps it is allowable to conjecture that their hopes were fed with promises of a favorable report of their loyalty to the king, and of the exertion of the governor's personal influence for either a total removal or a considerable abatement of the commercial restraints which had been complained of.

AN attempt was made at this time by Giles Bland,* one of Bacon's partizans, to surprise the governor at Accomac. In order to this he privately put a number of armed men on board a ship, which he had seized, commanded by captain Larimore, a bark of four guns, a sloop and schooner. The expedition was under the command of Bland and William Carver, a skilful and experienced seaman. They gave out that their object was to intercept the supplies which were destined for the governor. This report seemed not improbable: Bacon had declared that all vessels which should be found carrying provisions or warlike stores to the enemies of the country, were good and lawful prize, and Bland in obedience to this decree, had already made prize of several ships in the river and bay.†

BUT this plan, previous to its execution, was disclosed to the governor by captain Larimore, who at the same time promised if a sufficient force was sent under an officer of tried courage and fidelity, to put him in possession of his ship, whose capture would probably draw after it the possession of the whole squadron.‡

THE governor was much perplexed by the receipt of this message. His present situation was desperate. Notwithstanding the time he had been

* Ancient records.

† *Ibidem.*

‡ *Ibidem.*

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at Accomac, but few of the loyalists had repaired to his standard; and his personal safety was every moment becoming more insecure. Added to which, his reflections on the melancholy reverse of his fortune, heightened by solitude, and embittered by the recollection of those days when the people of Virginia hailed him as their friend and father, rendered him little studious of life, and nothing scrupulous of the difficulties and dangers of any project. Yet something was due to the faithful partner of his bed, who with conjugal tenderness followed him in his exile, and to those few loyal spirits, whose attachment had survived his prosperity, and whose fidelity had passed the fiery process of a civil war, and had been found pure at every trial. Larimore had been known in the colony only by the more boisterous and grosser qualities of his profession: Of the honest simplicity and careless generosity which are thought peculiar to sailors, he was thought to be wholly divested, and to pride himself in the exercise of mercantile cunning more than befitted an honest man. No particular facts were alledged against him; but the general opinion was, that he was profligate and faithless. It was not improbable that such a man would meanly consent to become a decoy, under promise of a reward proportioned to the importance of the service.*

WHILE the governor was yet undecided, Philip Ludwell, brother to the secretary, and who had been distinguished for his loyalty and attachment, proposed to manage this business in person; and his friends having caught something like an assurance of success from this display of generous zeal, all farther scruples were removed.

* Ancient records.

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Six and twenty tried men were secretly embarked at midnight on board two boats. Guided by Larimore's signal, they were almost instantly along side his ship, before the insurgents had any intimation of their proceedings. The feeble resistance which was opposed by men half asleep, and who were profoundly ignorant of the name and numbers of the assailants, was soon mastered; and thus by a sort of miracle the governor, who a few minutes before was without means or authority, found himself in possession of the whole naval force of his enemy, and which was amply sufficient to give him the undisputed command of the waters.*

THE fortune of sir William Berkeley immediately began to rise after this incident, with a rapidity proportioned to that of their former depression. The zeal and enterprize of his followers seemed too to have gained a new impulse, from the example of Ludwell, and instances of daring courage and active loyalty were no longer singular or solitary. Robert Beverley is mentioned as one of the most active partizans in the irregular war which followed, and which unfortunately was every hour descending from its original lofty character of loyalty or liberty, into a mere contest for plunder and revenge.†

MEANWHILE having collected six hundred men, sir William Berkeley resolved to recover by force his former authority. The fleet consisted of Larimore's ship and seventeen smaller vessels mounted with cannon, a force more than sufficient to prevere the empire of all the navigable waters in Virginia. As Bacon was absent on his

* *Breviare and Conclusum.*

† *Ibidem.*

Indian expedition with the flower of his party, and James-Town was capable of little defence, the loyalists were disembarked without opposition, and sir W. Berkeley, after a melancholy exile, found himself once more in possession of his ancient authority.*

HIS first object was to disavow in the most public and explicit manner, the several acts in favor of Bacon, to which he had given his sanction, as having been procured under the influence and terror of armed violence, and as being repugnant to his judgment, and derogatory to his duty and allegiance to his sovereign. Bacon was again proclaimed a rebel, and his followers commanded to surrender him and disperse, under penalty of being considered and punished as traitors.† He next proceeded to organize the government, supplying the vacancies in the council, by the most meritorious and faithful of his adherents; and having restored every thing as near as possible to its ancient footing, he stationed his troops in cantonments sufficiently convenient to be assembled at a short notice, either for defensive or offensive operations.

BACON was returning from his Indian campaign, when the news of this counter revolution reached him. He immediately discerned his oversight in leaving his enemy in his rear; and although he was in some degree prepared for the event, by the capture of Bland and his squadron of cruisers, he did not hear it confirmed without deep and sensible emotion. He saw himself by madly pursuing the phantom of Indian war, reduced to the most imminent danger, and his regrets were embittered

* Breviare and Conclusum.

† Ibidem.

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by the reflection that the liberties of his country would be involved in the ruin of his fortunes. A strict discipline was neither necessary nor practicable amongst volunteers, and after the defeat of the Indians the great body of his followers apprehending no new and immediate dangers, had dispersed to their several homes, in order to recount their exploits and receive the congratulations of their families; and Bacon was left with scarcely three hundred men, to encounter a force more than three times his superior; fresh, and provided with every thing necessary for their accommodation and comfort, whilst his little army was worn down by a long march, and by the incessant labors of an Indian war, and in want of several articles of the first necessity.*

BUT the despondence of Bacon was but for a moment, and these difficulties were easily surmounted by his ardent courage and his sanguine imagination. The disparity of numbers he thought would be more than compensated by the tried valor and enthusiasm of his followers. He would not even wait for reinforcements, but easily persuaded his followers, although in want of rest and repose, not to slacken their zeal or their exertions before they had given the last blow to the hopes and machinations of their tyrants. His arguments and example ran like wild fire through the camp, and their fatigues and wants were forgotten in the suggestions of indignation, the assurances of victory, and the near prospect of independence.†

THE march of the insurgents to James Town, although rapid, exhibited rather the spectacle of a triumph than the appearance of an army prepar-

* Breviare and Conclusum.

† *Ibidem.*

ing for battle. Their Indian captives, together with the arms and plunder, which had been taken, were placed in the centre, and displayed with all the gaudy parade of military pomp, the evidence of past achievement and the pledge of new victories. The women and children as they passed poured out their blessings on their heads, and offered up prayers to Heaven for their safety and success. The general himself, with a countenance that bespoke and inspired assurance of success, appeared on horseback, now in the van, and occasionally in the wings and rear, chasing away despondence wherever he appeared, and reviving hope by the ardor of his manner and the contagious spirit of his discourses.*

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THE insurgents arrived in sight of James-Town just as the sun was setting, and Bacon having reconnoitered the enemy from the eminences which overlooked the island, he ordered a cannon to be fired and the trumpets to be sounded, in token of defiance.† After this vaunt, which seems to have been the military practice of the age, he dismounted, and having surveyed the ground, he drew with his own hands a line for an entrenchment, and encouraged his followers, ready to sink under the fatigues of their march, to persevere a little longer, in order that they might afterwards repose in security, and that fortune might have no opportunity by any neglect of theirs, or by the presumption of a blind security, to cheat them of the just and glorious rewards of their courage and sufferings.

To have rejected an exhortation enforced by the personal example of their general, would be to belie their principles and reputation. An em-

* Breviare and Conclusum.

† *Ibidem.*

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trenchment of felled trees, earth, and brush wood rose at once like an exhalation, by their united efforts. The clear light of a full moon in October, by rendering distant objects visible, rendered their labor more secure and agreeable, and before midnight had commenced, they were able to refresh themselves and repose in security behind their breast work.*

THE ensuing dawn brought along with it a renewal of their labors. Bacon dispatched a small party at break of day to skirmish close in with the governor's lines, in order to ascertain their strength and position. These men, animated by the prevailing spirit of enthusiasm, were not content barely to execute the wishes of their general. They ran furiously towards the palisadoes, firing several times upon the advanced guards; and after having sufficiently insulted their enemies with this fruitless display of valor, they returned without any loss to the main body.†

IT would have been a just reproach on the spirit and judgment of sir W. Berkeley, if with a superior force and the decided advantage of position, he longer had submitted to these indignities. He had already all the reinforcements he expected, unless indeed the supplies which he had pressingly demanded from Britain, and these, he scarcely dared to hope, would arrive in time to justify any considerable delay on his part in the present critical juncture of his affairs. Every hour would on the other hand, augment the power and consequently the enterprise of the insurgents; for however the partial historians of Virginia have thought proper to represent the events of this period, an immense majority of the people were actually en-

* Breviare and Conslusum.

† *Ibidem.*

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1676.

gaged in the rebellion, and this fact was so notorious, that the friends of sir W. Berkeley, who after his departure for England, undertook a vindication* of his conduct, against the report of the king's commissioners, were constrained to admit it; and that the little corps of loyalists who accompanied him in his exile to Accomac amounted to little more than twenty persons. The force that he had brought from Accomac was composed of the crews of ships belonging to all nations, and such idle and worthless persons as were to be moved only by the most sordid and mercenary motives, and it is asserted by the commissioners of the king, who drew their information from all classes and descriptions of persons within the colony, that independent of their usual pay as mercenaries, the governor was obliged to hold out the hope and even the promise of plunder and confiscations, before he could prevail on them to engage in his service.

URGED meanwhile by the motives, which have been mentioned, the governor attacked the entrenchments of the insurgents with the greater part of the garrison. The several corps on which he placed his principal reliance were placed in the front line, and were commanded by Ludwell, Beverley, and the most able and faithful of his adherents. The force employed on this service sallied out in good order, and marched up to the entrenchments with a shew of courage and resolution. The contest lasted but a few minutes. Bacon received the onset by a cool and well directed fire from behind his entrenchment; and the governor's party, the greater part of which was

Governor
sallies out.

* See Vindication in Records.

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IV.

1676.

Is beaten
back.

composed of new levies ; of men picked up from among the idle, the dissolute, and the abandoned, immediately turned their backs and fled. In vain their officers conjured them with tears in their eyes, to stand their ground, to turn and wipe off this stain on their courage : These arguments had no effect on men, whose sole object was plunder, and who finding the service in which they had engaged more dangerous and unproductive than they were taught to expect, were resolved to take the first occasion to abandon their leader.*

So great was the panic that the fugitives did not stop till they had arrived within their lines, where they were protected by their batteries and the cannon of the armed ships.

BACON checked the ardor of pursuit at a short distance from his lines. From the shortness and suddenness of the onset, he apprehended it was only a feint to draw him from his strong position into an ambush ; and sensible of all the advantages of his situation, he prudently contented himself with the advantages he had acquired. This caution in all probability saved sir W. Berkeley : for had the insurgents been permitted to follow up their victory, they might have entered James-Town along with the fugitives, and by the seizure of the governor's person, have for this time, put an end to war.

THE loyalists had several men killed and wounded in the field, and their drums and standards, which were thrown away in the pursuit, were taken as trophies by the insurgents.†

AFTER this attack, Bacon brought several large cannon to bear upon the ships, and compelled

* Ancient records.

† *Ibidem.*

them to haul off from the island farther into the stream. His small army received daily supplies and reinforcements from the zeal and affections of the people; and being now in a condition to act offensively, it was thought he meditated a general assault upon the town and island, while his fire would prevent their receiving any assistance from the ships.*

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1676.
Bacon me-
ditates an
assault.

THE governor saw at once the extent and imminence of his danger. His position, even with all the labor he had for some time employed in strengthening it, was incapable of defence against a spirited assault, even for a few hours. He had proved by the late unfortunate sally, how little reliance was to be placed on the great body of his followers, who ignorant of the principles of the war, and indifferent to its issue, but so far as it might conduce to their profit, were attentive only to the means of their personal safety. Yet notwithstanding those considerations which advised a retreat as the only prudent measure, he had formed a gloomy determination to defend it to the last, and perish in its ruins.

This determination, which was deliberately and publicly announced, instead of inspiring a noble ardor and desperate resolution, was heard with emotions of terror, not unmixed with astonishment. That any man should deliberately throw down his life for the public advantage, or sacrifice it to the offended spirit of a nice sensibility, or the manes of a violated honor, was what men of grosser faculties were utterly unable to comprehend. With such men all the aberrations from vulgar and established usage; all the splendid eccentricities of genius and refinement,

* Ancient records.

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are invariably ascribed to one general standard—madness. The determination of sir William could scarcely fail of coming under this standard. They concluded his misfortunes had destroyed his reason, and that they could not too speedily abandon a man who, reckless of life himself, could not be supposed to have much care or concern for the safety of others.

THE perplexity of the governor every moment increased. Mutiny had now thrown off all disguise and stalked fearless in his presence. But twenty men would consent to remain with him, and even these strongly advised the propriety of reserving himself for better days, and a more suitable and momentous occasion. A general assault was to be apprehended every moment, which would be taken advantage of by the cowardice of his followers, to abandon him, or, perhaps, give him up to his enemies. His friends represented that there was no opportunity to fight with advantage or die with honor; and that a short delay would probably effect an entire revolution in his fortunes, by the arrival of the troops and supplies which were expected from Britain.

The gover-
nor is pre-
vailed on to
retire.

THE cause of prudence at length prevailed. Instructions were secretly dispatched to the commanders of the several vessels to haul in closer to the island, and to have all their boats in readiness to repair to James-Town at a concerted signal. Bacon was held in suspense by various movements, indicating an attack on the part of the governor. At midnight the loyalists got on board the boats with the utmost silence and regularity, and the whole fleet (every thing that was valuable being previously brought off) dropt silently down the stream, and came to an anchor at a sufficient distance from the range of the batteries on the island.

THE morning disclosed to Bacon the flight of the governor, and having taken the necessary precautions to guard against any stratagem or ambush, he descended from the heights and marched into the town. He found nothing but empty walls : not a loyalist was to be seen. Every thing that was valuable, or might be anywise useful to the insurgents, was taken from the stores, and what it was inconvenient to carry off, was thrown into the river. The ships lay at anchor out of the reach of danger, and appeared to be patiently waiting until the rebel army should disperse, that they might recover possession of James-Town. To Bacon such a conquest appeared little short of a defeat. For more than a week the health and time of his brave followers had been wasted for the possession of a petty town, without houses, or inhabitants, or riches ; which was only useful to those who held the dominion of the sea, and which might be easily surprised by a small body of troops supported by ships. But to him it was wholly and utterly useless. It was incapable of defence against regular approaches ; and his followers being all volunteers, who were bound by no ties but their principles and affections, and moreover averse to forts, as one amongst the grievances complained of, could not easily be persuaded to become a garrison for its defence.

UNDER these circumstances Bacon embraced a resolution, which displays at once the ardor and decision of his character. Since James-Town could not with propriety be retained by himself, he determined it should not be a harbor and refuge for his enemies. His resolution, as well as the arguments on which it was supported, were briefly explained to his army, who approved it by acclamations. Firebrands and combustibles

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James-
Town burnt
by the insur-
gents.

were immediately prepared. The general* himself led the way, holding a lighted torch in his hand, and in a moment, the church, the state-house, and all the other buildings, of a private or public nature, were wrapped in a sudden and general conflagration.

THE flames, which were clearly seen from the ships, announced to sir W. Berkeley the dauntless and desperate resolution of the insurgents: And as nothing farther was to be hoped or apprehended in this quarter, on either side, the fleet proceeded on a cruize towards the territory of Accomac; and Bacon having extinguished all farther opposition to his authority, and organized the government after the most secure and popular manner, dismissed for the present the great body of his followers; having previously engaged their promise to be ready at the first notice of any new attempt of the governer or his abettors, to disturb the public tranquility.†

SINCE the convention, Middle Plantation had been made choice of by Bacon, for the meetings of the council and the seat of his administration. It is to be presumed then, that he retired to this place after the burning of James-Town, and that about this place, he had disposed the flower of his troops, against any sudden emergence. Every hour of his time, and his utmost exertions, were necessary for the support of his power and the security of his party....Sir William Berkeley had early in the dispute, transmitted to England such an account of the force and intentions of the re-

* Laurence and Drummond set fire to their own houses, which were by far the most valuable in the town.

* Ancient records.

bels as were best calculated to rouse the attention of the king, and to justify his own conduct. In these accounts the people of Virginia were represented to be formidable by their numbers; to be deeply infected with the contagion of mutiny and rebellion; and to this dangerous spirit he ascribed the operation of the commercial restrictions imposed on them by parliament, and the influence of some popular leaders, whose lurking treason was concealed under the specious garb of patriotism, and who took advantage of the public distress and disaffection, to accomplish the most ambitious projects. To remove these disorders, he strongly urged the necessity of dispatching a body of regular troops, as the only effectual means to uphold the government, and prevent the colony from throwing off all subjection and dependence on the parent state.*

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It appears by the convention, that Bacon was fully apprised of the subject of this communication, and that he was determined to resist the armament as soon as it appeared. The time approached too, when he was to meet the assembly, which he had summoned by the advice of the convention, and he could not avoid feeling the importance of a crisis so full of danger and uncertainty, and where the issue would depend in a great measure on his own personal address and intrepidity.

THE spirit of Bacon rose with the difficulties of his situation. By the means of his partizans, with whom he preserved a close and regular correspondence, he was enabled to keep alive that

* At so early a period had a jealousy of her colonies, particularly of Virginia, taken possession of the mother country.

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enthusiasm and continue that concert so essential to the success of a national resistance. The public dangers enabled him to engraft the military on the civil authority, without giving offence. It was the cause of all men ; and every man was a soldier, prepared to defend with his life his own interests, which were involved in those of the people. Several of his captains exercised offices purely military in the districts which were thought to be most exposed, and the popular complaisance had bestowed on them severally the dignified title of general : But although they appeared to exercise an independent authority, they were but the creatures of his will, and their consequence was built on his reputation. Drummond, Lawrence, Granes, Ingram, and Walklate, have been handed down as leaders of distinct detachments, and as zealous supporters of the principles of their leader.

BUT the chief reliance of Bacon was on himself. He visited in person all the military positions : animating the zealous, and confirming the wavering, by his arguments and example. In the prosecution of this plan, the labors, watchings, and difficulties he had to encounter, acting on a violent cold he had contracted in the trenches before James-Town, began to make a manifest impression on his health. A slight diarrhœa, wanting at first little more than rest to remove it, unskilfully treated, was daily acquiring a fixed and permanent habit in his constitution. But he did not permit his zeal and exertions to slacken on this account ; and although the fatal ravages on his health were visible to all, no one could discern the least diminution of his ardor, or the slightest abatement of his labors. Death at length overtook him at the house of a doctor Pate in Gloster county : but though diligent search was after-

Bacon's
health de-
clines.

His death.

wards made for his body by sir William Berkeley, the piety of friendship preserved his remains from the insults which the cowardly malignity of governments exercise on their dead victims.

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A SANGUINE temper, a bold and dauntless courage, great promptness and decision of character, added to a presence of mind that rarely deserted him: these appear to have been the enviable qualities of this man. It is attended with some doubt whether he possessed, in the same eminent degree, those cooler properties, which might have enabled him, by comparing his means with the ends he had in view, to steer clear of projects above his strength, and to limit his ambition to the just points of resistance and obedience. But even though these points are decided against him, it will detract little from his real fame. When the liberties of a people are in danger, or have been violated, it is perhaps right to trust less to the doubtful virtue of calculations, and the cold suggestions of prudence, than to the ardor and enthusiasm of liberty, and all the heroism and glory they will inspire. Leonidas, with his handful of patriots, at the straits of Thermopyla, is an object better calculated to command our reverence, and excite our admiration, than the great king moving at the head of his millions, and surrounded with all the pomp of eastern magnificence.

Character
of Bacon.

THE life of Bacon, as it appears in his actions, furnishes proofs of a nature less equivocal. Active, vigilant, patient, enterprizing, although unacquainted with arms, the moment the energies of his mind were directed to this pursuit, he displayed all the qualities necessary to exalt and adorn it. A faithful friend, his associates never had to complain of the sacrifice of their persons or pro-

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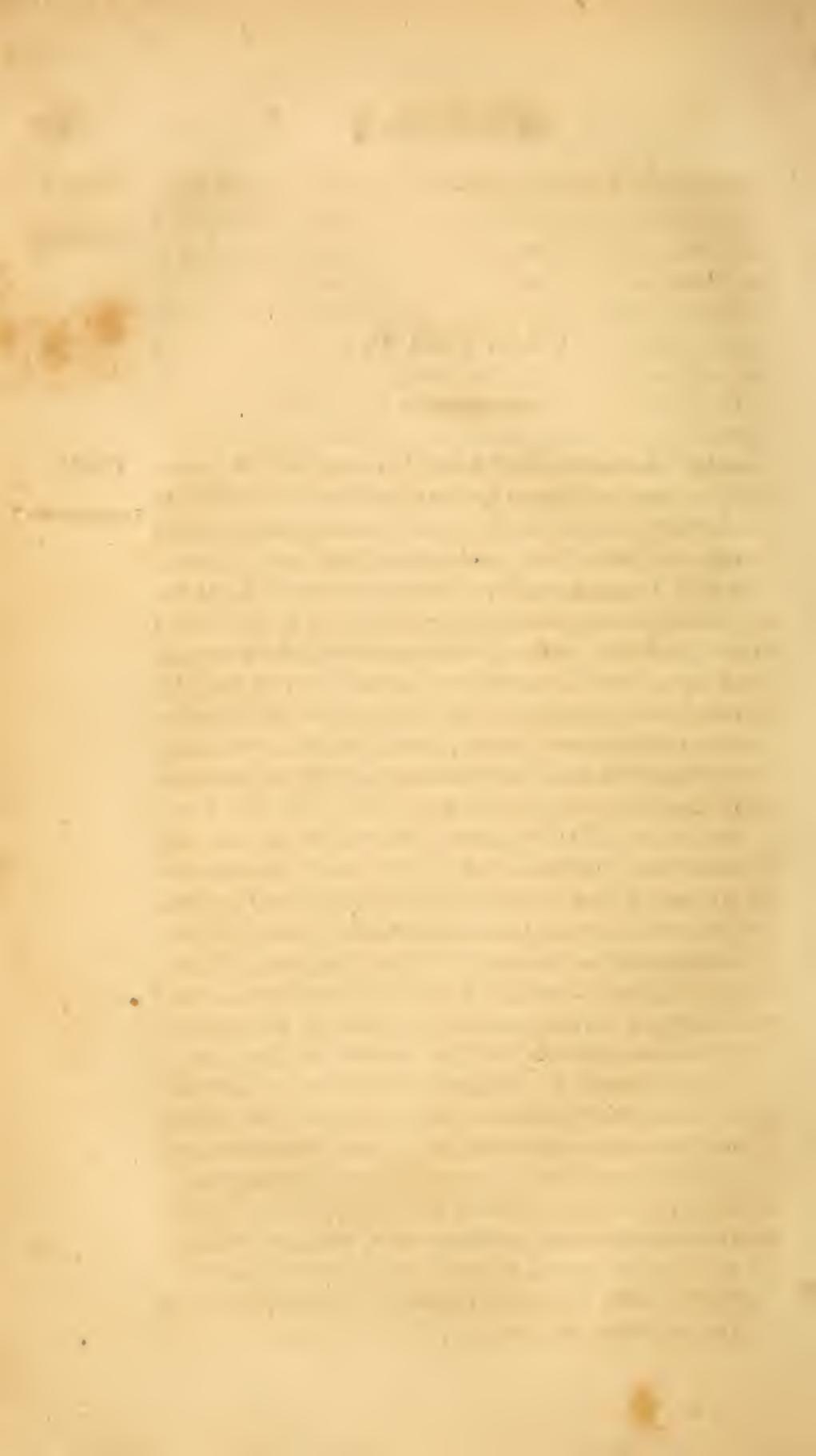
perties by any mean or selfish compromise of their leader. He disdained to make his reputation the stepping stone to his own advancement: and to his honor it should be mentioned, that while sir William Berkeley was daily executing men by mock trials, or by the summary process of martial law, at the time when he had scarcely a foot of ground to stand on; Bacon, flushed with victory, and in possession of all the resources of the country, was never reproached with shedding a single drop of innocent blood, save what was unavoidably spilt in the heat and hurry of battle.

HAD this man's position on the globe been more favorable, or his means more ample, it is not easy to say how exalted had been his rank in history. He might have been the Brutus or the Cromwell of his country: but as it is, he is fated to pass off without fame and almost without notice....A striking instance how much merit is under the control of times and circumstances.

CHAPTER V.

State of the public mind after the death of Bacon—Divisions among the insurgents—Sir William Berkeley proposes terms of accommodation--which are accepted—His violation of his engagements --his wanton cruelty--his mock trials, and sanguinary executions--The king's commissioners arrive with a general indemnity, which he refuses to proclaim—Assembly remonstrate against his conduct—He returns to England—Administration devolves on Sir Herbert Jeffries, the lieutenant governor—Commissioners apply for journals of assembly--which are refused--but are taken by force—Six nations--their inroads--treaty with this people--and with the neighboring tribes—Friends of sir W. Berkeley cabal against the administration---and publish a vindication of his conduct—Case of Philip Ludwell—Death of Jeffries—Sir H. Chicherly succeeds—Lord Culpepper arrives—Complaisance of assembly to him--his abuse of it—He returns to England—Depreciation of tobacco—Public discontent—Partial insurrections---Writs issued for calling an assembly—discontent appeased by this measure —The assembly proving refractory, is dissolved—Plant cutting—Return of Culpepper—Change in his deportment .. Raises the value of foreign coin --and again reduces its value---Robert Bevertey---his intrepid behaviour---is persecuted by the governor and council.

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State of
things after
the death of
Bacon.

THE death of Bacon left the insurgents without a head, and there appeared no one sufficiently conspicuous to unite the public suffrage and confidence in his favor. The pretensions of Walklate and Ingram were so nearly equal, and yet so far below the public expectation, that to have decided between them, would only be to create a dangerous jealousy, without advancing the public interest. Things were therefore permitted to remain as before this event ; and the war was protracted by the sudden incursions of small parties, principally with a view to plunder and revenge.

In this sort of desultory warfare, the governor, having the command of the waters, was enabled to transport his men with celerity to any point, and it was difficult to guard against the suddenness and secrecy of his movements. Yet, the insurgents had still the decided advantage ; and, wherever they appeared, the troops of the governor were compelled to retire before them.

BUT, notwithstanding these appearances, the insurrection was hourly manifesting decided symptoms of a speedy dissolution. The long duration of the civil war had prevented the usual attention to the labors of agriculture, and the other useful arts. The marches and counter marches of detachments, enflamed against each other by all the rancor of party, would naturally augment the evils of this neglect. In this state the expences on each

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side were supplied by arbitrary requisitions, levied on their opponents, under pretence of disaffection ; and the pressure of want introduced a sensible abatement in the popular zeal and enthusiasm. Had Bacon lived, his genius would have remedied those evils, and his example and eloquence have supported the hopes of the people in their distresses. But they saw in his successors none of his enlarged views, or his commanding talents, and they impatiently longed for the return of peace, as the sole means of averting the ruin which impended.

SIR W. Berkeley saw with pleasure the first symptoms of returning loyalty ; and, taught prudence by his misfortunes, he did every thing in his power to encourage this pacific spirit. His violent proceedings towards several of his prisoners, who were executed* by his directions, had inspired a general distrust of his sincerity, and he found it necessary to curb the intemperance of his own passions, and to check the furious zeal of his followers.

Sir Wm.
Berkley pro-
poses an ac-
commodati-
on.

A PLAN of general indemnity, unrestricted by any exceptions, was circulated through the country ; but aware that little was to be expected from this measure, so long as a powerful body was in arms, to countenance rebellion and punish apostacy, he proceeded to York river, and entered into a regular treaty† with Ingram and Walklate, who commanded a considerable body of the insurgents at West Point. This treaty commenced by a complimentary‡ letter to Walklate, dated

* See petition to king and council, by Sarah Drummond.

† See Breviare and conclusum.

‡ *Ibidem.*

from on board the Larimore; and its management and ratification were entrusted to Grantham, one of the sea captains, whose zeal and services had been eminently exerted for the restoration of the governor's authority.

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ABOUT this time Granes,* who commanded the insurgents on the south side of James river, was defeated by captain Couset and slain; and, about the same time, the greater part of James river declared for the governor.

MEANWHILE the treaty of West-Point was brought to a conclusion by Grantham, on terms equally agreeable to both parties. A general indemnity and oblivion of past offences, on the part of the government; and a surrender of their arms, and restoration of their plunder, by the insurgents, were the only stipulations, which were demanded or conceded on either side. So anxious were all men to terminate the present anarchy, that they scarcely thought of making terms; and the government appeared to forget the wounds, which had been inflicted on its dignity; and the people the repeated violations of their charters and liberties.

THE current ran now as strong in favor of loyalty as it had formerly done in support of rebellion; and so perfectly sincere were the people, that they could not permit themselves to entertain the least distrust and jealousy of their adversaries. But the wounds of a false pride and mistaken honor are not so easily eradicated. The vain pride of ancestry, by nourishing a notion of a more pure and honorable blood; the insolence of power, pretending to derive its authority immediately or by delegation from heaven, cannot brook the insolent avowal of rights and claims in

* Breviare and Conclusum,

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the people. All attempts to wrest their privileges from their oppressors are considered a profanation, which can scarcely be punished with too much rigor; and though they are sometimes compelled to abate somewhat of their pretensions, they never forgive. The wounds of aristocracy rankle deep; and though they are apparently cicatrized, the slightest irritation is sufficient to open and ename them.

THE conduct of sir W. Berkeley was in direct contradiction to his own solemn assurances, and the tenor of his proclamations. Instead of the pardon and indemnity, which had been promised, nothing was heard of but executions, fines, and confiscations. His partizans were let loose through the country, armed with the terrors of judicial power, enforced by military authority. All the copious stores, which malignity and vengeance had been laying up, during the existence of the civil war, were now drawn out; and a trifling injury, an insult, nay, even a look, were recollected and punished with inhuman severity. An attempt had been made to procure the condemnation of the obnoxious characters, by influencing or intimidating juries; but the acquittal of ten in one day, by various pannels, convinced them of the impossibility of wresting this noble institution to their purpose, and it was abandoned for the more summary proceedings of martial law.

Governor's
cruelty.

BEFORE these partial and vindictive tribunals, which were filled by the most violent partizans, by a sort of general proscription, the great body of the people were brought in succession, and punished according to the degrees of their rebellion. To such a pitch of injustice and indecency had they arrived, that they reviled the prisoners at the bar, in all the bitterness of rage and revenge. They are represented by the king's commis-

sioners, to have proceeded "with that inveteracy as if they had been the worst witnesses, rather than judges of the commission; accusing and condemning at the same time."* The governor himself often attended these trials, and gave countenance to their bloody and inhuman proceedings.

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ONE of these cases is preserved in an order of the king and English privy council, to the lieutenant governor and council of Virginia, on the petition of Sarah Drummond; which, for injustice, has been seldom exceeded. The petition states, that her husband, "William Drummond, was, after the late rebellion, taken, stript, and brought before sir William Berkeley, and by him immediately (although in time of peace) was, without any thing being laid to his charge, sentenced to die by martial law; although he never bore arms nor any military office: not being permitted to answer for himself, or received to trial, according to the known laws of England;† but within four hours after sentence, being hurried away to execution, by the said governor's particular order, who before that time, on some private grudge, vowed that the petitioner's said husband should not live one hour after he was in his power; that although the said William Berkeley did invest the widows of the rebels, that were either killed or executed, in their husband's estates, nay, even the widow of that grand rebel Nathaniel Bacon, the only one excepted by royal pardon; yet, so great was the said governor's inveteracy against the petitioner's husband, that he

Case of
Drummond.

* Breviare and Conclusum.

Ancient records.

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not only took away his life, but caused his small plantation to be seized, and given to himself by the council; his goods to be removed and embezzled, and the petitioner, with her five small children, to fly from her plantation, and wander in the desarts and woods till they were ready to starve."

THIS case is, perhaps, highly coloured, by the distress and indignation of the widow; but, in all its leading circumstances it was confirmed by ample testimony; and the loyalists, who afterwards entered into a vindication of the conduct of sir W. Berkeley, did not pretend to impeach its validity. They state, indeed, that Drummond was a rebel, and that his punishment was just.

THE report of these tyrannical proceedings filled the colony with consternation and horror, and numbers were preparing to abandon their country for ever.* Fifteen had already been executed, and the rage for prosecutions appeared unabated. The jails were crowded with prisoners, and a considerable number had been able to buy their lives only, by the sacrifice of their estates, or by consenting to pay enormous fines, imposed at the discretion of their judges, and which were destined at once to feed the avarice and vengeance of their tyrants†....“ For so it happened,” say the king’s commissioners, “ that none did escape being found guilty, condemned and hanged, that put themselves on their trial, there happened to be so much guilt or fear in most men, that there was not a man, who would not much rather have a fine imposed on him, before he would venture to stand to his trial: so at last this was the question to criminals, Will you stand your trial, or be fined

and sentenced as the court shall think fit?" It is difficult to conceive a state of society more dreary and deplorable.

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WHILE these arbitrary proceedings were at their height, the assembly, which had been summoned by the governor on his return to Green Spring, met; and Herbert Jeffries, who had received the king's commission to act as lieutenant governor, accompanied by sir John Berry and Francis Morrison, who had been named commissioners, to enquire into the state of the colony, arrived in Virginia. With them came a regiment of regulars to suppress the rebellion.

January 20.
Commis-
sioners ar-
rive.

January 29.

THESE incidents afforded a short respite to the public distress, and a considerable degree of anxiety was manifested by both parties, respecting the objects of the commission, and the nature and extent of its powers.

ON the first notice of the arrival of the armament, the governor repaired to Kiquotan, and received on board the Bristol, the dispatches from the privy council. The commissioners then read to him their commissions, and delivered the several proclamations and instructions, and an act of general indemnity, with the single exception of Bacon. Here they first learned with astonishment and indignation, the trials and executions by martial law, and desired that this mode should be relinquished, as plainly repugnant to the laws, as well as the express commands of the king. The governor urged, in justification of his conduct,* that "he doubted whether a legal jury would have found them guilty. The contrary, he said, he was afterwards sufficiently convinced of, when he saw upon the trials had at his majesty's oyer and ter-

* Ancient records.

CHAP. V. miner, that there was not a prisoner, that came to the bar, that was brought in guilty by the jury."

1677. THE commissioners next urged the propriety of publishing the king's proclamation of indemnity, as a necessary step towards appeasing the fears and restoring the tranquility of society.

Governor refuses to publish proclamation of indemnity and pardon. BUT the governor's vengeance was not yet sated, and his haughty spirit was roused by this attempt to interfere with his authority. He refused to publish the king's proclamation, unless he was permitted to except from its benefits certain characters, whom he had marked out for destruction.

THE commissioners finding that nothing was to be gained by reasoning with a rash and spleenetic old man, proceeded directly to the immediate object of their voyage, and opened their commission for hearing and determining grievances.

THE moment the nature and objects of the commissioners were made known, a general joy* prevailed throughout the colony, and their tribunal was continually crowded with the victims of loyal cruelty and rapacity. The widows of those, who had been executed, attended, weeping, with their children; and using the sacred privileges of incurable anguish and despair, invoked justice on the head of the tyrant. The public indignation too, in proportion to the efforts, which had been used to suppress it, now burst forth in charges against the governor and his creatures; and crimes, which had not before been heard of, were presented and substantiated by evidence.

IN this delicate business, the commissioners proceeded with moderation.† Aware that several of these accusations had received a strong color-

* Ancient records.

† *Ibidem.*

ing from the passions and interests of the petitioners, they summoned before them some of the most moderate and disinterested characters from every county, that, by their unbiased testimony, they might be able to determine with justice and certainty.

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EVEN with this caution, the number, the variety, and enormity of those charges which were supported, astonished them, and they were at a loss to reconcile this assemblage of odious vices with the received reputation of sir W. Berkeley.

THE commissioners applied to the governor for the restoration of the estates, which had been seized without trial or conviction, and sent him the written opinion of lord Coke against the legality of his proceedings. But these estates were held by himself or his creatures, and he refused to comply with this requisition; appealing from their decision to the king and privy council. In this case the commissioners summoned six persons to value these estates, under oath, and exacted bonds, with approved security, from the holders, to abide the dicision of the king.*

THE continual solicitude of a mind, once finely attempered, but now become pcevish by age, and irritated by opposition, began sensibly to affect the health of the governor. Although in the spirit of a cavalier, he affected to despise the opinions of the people, he could not avoid observing the horror, which his presence every where excited; and his pride was humbled by the open countenance given to his accusers, by a commission established by royal authority. He disdained, however, to manifest his uneasiness, and his deportment was marked by the same serenity and dignity,

* Ancient records.

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V.
1677.

which graced his more prosperous fortunes. But his griefs, in proportion to the efforts used to suppress them, preyed on his health; and the irritation of his temper would often betray itself, spite of his caution, in sudden sallies, and bursts of rage and invective.

To relax any thing of his sternness and severity at this season would, he thought, be imputed to the suggestions of fear and the compunctions of conscience; and, in order to preserve the consistency and dignity of his character, he resolved to act with greater vigor and severity. Neither his feelings nor his safety would permit a much longer stay in Virginia. He wanted to justify his conduct before the king in person: but he was resolved, that every moment of his stay should be consecrated to vengeance.

In this spirit, Giles Bland, who had been surprised by Ludwell on board the Larimore, was brought to his trial; and although he pleaded that sir W. Berkeley had his pardon, with the royal signature in his pocket, he was found guilty, by a jury summoned by the loyal sheriff of James-Town, and executed. Nine others were brought up in succession, and suffered the same fate. As if to manifest in the most explicit and public manner his contempt of their remonstrances, the members of the commission were invited to attend these trials, and it was there, they witnessed that indecent and savage zeal in the judges, which has been mentioned above.*

It is not easy to conjecture where these excesses would have stopt, if the governor had been permitted to proceed without interruption. But the assembly, which was sitting at this time, voted an

* Ancient records.

† *Ibidem.*

address to the governor, containing these remarkable words "that he would desist from any farther sanguinary punishments, for none could tell where or when it would terminate."

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TOUCHED by this just and moderate reproof, and perhaps glutted with blood, he stopt short in the midst of his career; and, having now appeased the offended spirit of official dignity, and set an example to traitors of the just and dreadful punishments with which Heaven, by means of its earthly delegates, punishes rebellion, he prepared for his departure to Britain.

SEVERAL circumstances, of a nature wholly unexpected, contributed at this time to confirm his disgust. The assembly, which he had summoned immediately after the suppression of the rebellion, and whose fears, as well as their loyalty, would, he thought, induce them to enter fully into all his schemes of rapine and revenge, had early evinced a disposition to thwart and disoblige him. In his address, at the commencement of the session, he had taken occasion to advert to the generous protection afforded him by the people of Accomac, and requested that the assembly would devise some honorable *mark* of distinction to reward their loyalty. When this part of the governor's communication was in debate, in a committee of the whole, colonel Warner, the speaker, said, "he knew not what *marks* of distinction his honor could have sett on those of Accomack, unlesse to give them *ear-marks* or *burnt marks*, for robbing and ravaging honest people, who stay'd at home, and took care of the estates of those who ran away, when none intended to hurt 'em." This was a direct attack on the character of the loyalists, and, in some degree, an exculpation of the views and character of Bacon.

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THE remonstrance to the governor against his sanguinary proceedings, is an evidence, that this disaffection was not confined to Warner. In fact, the present assembly contained several old members, who, during the three preceding years, had argued freely on the several subjects of grievance. Amongst these I find the name of Thomas Pressley, one of the members for Northampton so early as the year 1667. This is the man mentioned in an old manuscript, addressed to the earl of Oxford, lately published in the Enquirer, of this state, who, on his return home, told his neighbor, the member from Stafford, "He believed the governor would have hanged half the country if they had let him alone."*

SIR William Berkeley returned in the fleet to England, supported in the midst of his infirmities by the energies of a spirit, which age nor misfortune could not wholly extinguish. He indulged a hope, that his bare presence would remove from the mind of the king all unfavorable impressions. But on his arrival, in conversing with some of his friends, he found, that his conduct in Virginia was regarded with horror by a majority of the council, and that the king himself either joined in his condemnation, or was ashamed to sanction so many enormities.

THE pillar, that supported him through so many misfortunes was now removed, and he sank at once into the grave; a venerable ruin, which had long nodded and bowed to every blast, but which, contrary to general expectation, was propped and supported by the excellence of its materials, and the admirable harmony of its parts. The character of

* See Appendix to Rebellion.

its architecture was *gothic*, and several barbarous traces of the false taste, which prevailed in those days, were visible in many of its parts. The *tout ensemble* too, wanted something of the softened graces and just proportions of the classic orders : but there was, nevertheless in it, an air of gloomy and solitary grandeur, for some time previous to its fall, which left a deep impression on the spectator ; and though he could not, consistently with his judgment, approve either the plan or the execution, he could not help regarding it as a spectacle worthy to excite the liveliest interest, and to gratify the most ardent curiosity of the *antiquary* and the *naturalist*.

THE historians of Virginia dwell with peculiar complacency on the virtues and accomplishments of this gentleman ; and although they rarely manifest either the disposition or capacity to preserve the memory of their achievements, by skilful and striking portraits of their principal personages, we are indebted, on this occasion, to their zeal for some detached lineaments, which will serve to convey some faint traces of a true likeness.

LIVING in times of civil contention, when the great qualities of the understanding are boldly and rapidly developed, it is on all hands agreed, that sir W. Berkeley was conscientiously attached to the principles of his party, and scrupulously observant of those finer touches of feudal or chivalric honor, which were thought to constitute its principal perfection. The republican party in England justified their opposition to the arbitrary measures of the court, by arguments and examples drawn from the Greek and Roman commonwealths; and seeing that the instances of patriotism and self-denial were most numerous and conspicuous in those states, where the manners of

Character
of sir Wm.
Berkeley.

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the people were plain and simple, they affected a Roman plainness in dress, and the Spartan severity of manners. The softness and polish visible in the followers of the court, and which were the offspring of wealth, of indolence, and privileges, were regarded with horror, as the causes and symptoms of a fatal and inevitable corruption of manners. The cavaliers, or, as they stiled themselves the gentlemen of that day, on the other hand, piqued themselves on their lineage and descent ; and modelled their manners on those gallant and adventurous knights, who freed Europe from dwarfs and giants, the ruthless proprietors of enchanted castles, and who rescued distressed beauty from the dungeons of enchanters and magicians.

To ardent and generous spirits, it must be confessed, there was something fascinating in the example of those worthies, who freed the softer sex from the thraldom of a coarse and barbarous tyranny, and raised them from being the slaves of their husbands, to that equal rank, which they have since maintained, and which they continue to adorn by their virtues. It was seen, that the sphere of human happiness was enlarged by this liberality ; that from this moment the connexion between the sexes became more lasting, more rational, and endearing ; and that the men were daily improving in humanity and virtue, under the soft and bewitching influence of beauty, rendered more interesting by the graces of culture and education.

IT should be acknowledged too, that the gross and improbable fables of the feudal age were no longer accredited : so much only of the laws of knighthood and chivalry survived as served to keep alive and nourish a high and romantic honor. An English gentleman no longer rested on his pedigree and his lance, for the esteem of man-

kind. More copious and lasting sources of glory and estimation were discovered in the attainment of knowledge, and the distinctions of society. The school theories were corrected and improved by experience, and that inimitable finish given by travel, so necessary in the forming the fine gentleman.

UNFORTUNATELY for the world, those noble qualities were lessened, if not wholly obscured, by some of the causes, which contributed to produce them. They saw the accomplishments, so precious in their estimation, almost exclusively confined to the court and aristocracy; and they rashly concluded, that the people at large, rude and barbarous, unamiable and unlettered, were utterly incapable of self-government. The privileged orders appeared, by their intellectual superiority, to be pointed out by Heaven as the governors, and it seemed little short of impiety to resist them. Hence their attachment to royalty. The king, in point of riches, and descent, and power, and learning, was supposed to be the first gentleman in the nation, and they idolized in their chief, the supposed image of their own accomplishments.

AMONGST a class, where all were distinguished, sir William shone conspicuous and distinguished; and although his actions were atchieved in so remote and obscure a corner of the empire, that the parent state almost forgot its existence, amid the shocks of repeated revolutions, he has afforded the most conspicuous proofs of disinterested fidelity and successful courage. We see him, when the hopes of the royal party were extinguished, in every other quarter, by the genius of Cromwell and destinies of the republic, set himself in array on the banks of James river, with his scanty means, against the most formidable power in Europe. Overpowered,

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at length, by numbers, he forces from his enemies the most liberal terms ; having augmented, rather than diminished, by his capitulation, the privileges of the colony. Henceforth he is heard of no more, till, starting from his retirement, and seconding the popular impulse, he overturns the protector's government within the colony, and proclaims the second Charles. So that he had the good fortune to be the last to abjure his allegiance to royalty, and the first to renew it.

It were to be wished, that the remainder of the portrait, for the honor of our nature, could be made to correspond. It would at least furnish a pleasing picture of courage and fidelity : and although the main actions of the original were projected on a scale of erroneous policy and mistaken honor, but one opinion could be entertained of the qualities of his heart and the graces of his manner. But we are afraid, that such a correspondence would destroy all likeness. In the suppression of Bacon's rebellion, he has been accused of acting with a spirit of revenge and cruelty. His declining years were tainted with avarice, and stained with innocent blood : his deportment, as governor, was haughty, insolent, and repulsive. It may be urged, that these charges are utterly irreconcilable with the character for nice honor and severe virtue, which has been unanimously ascribed to sir W. Berkeley. I cannot help it. I must only say, these historians were either ignorant of facts, or they were unwilling to speak the truth. They speak only of the morning of his power, when he merited, by his virtues and urbanity, the character they ascribe to him. They saw nothing of the meridian fervor of its beams ; or, when lurid and portentous, he set in a sea of blood.

BUT such revolutions are neither rare nor uncommon in the human character. We must no longer look for those graces and virtues in this man, that once made him the idol of the people's love; that transported them into rebellion, or reclaimed them to allegiance. Age had blunted that fine edge of sensibility, and obscured that imitable polish of manners, whose fascination was long remembered with delight and admiration. What had been spared by age and infirmities, opposition had inflamed into madness; and all that remained of the accomplished cavalier of the year 1640, was a feeble and wrinkled old man; fitful and spleenetic, captious and overbearing: whose feebleness and petulance were those of a child, whose wrath and cruelty were those of a tyrant.

THE absence of sir William Berkeley devolved the government on Herbert Jeffries; and the redress of private grievances proceeded without any considerable interruption. The loyalists, justly apprehensive that they would be immediately called on to disgorge their plunder, did all in their power to embarrass and mislead the commission; and lest their silence should be construed into an admission of the various charges alledged against them, they drew up a defence of sir William Berkeley's administration, in which they took occasion to animadvert, with some asperity, on the conduct of the king's commissioners. But this publication is remarkable for little else beside its querulous and peevish spirit; and, as it was not calculated to make any material impression, no notice appears to have been taken of it by the parties interested.

AN opposition, of a nature more alarming, and from a quarter where it was least expected, was encountered by the commission conjointly with the governor. To enable the king's commissioners to

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Herbert
Jeffries lieu
tenant go
vernor.

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prosecute their enquiries with effect, it had been usual to give them the power to call for persons and papers; and all persons were commanded, on their allegiance, to obey their requisitions.

Commissi-
oners apply
for assem-
bly's jour-
nals,

which are
refused,

but are ta-
ken by force.

IN conformity with these instructions, the commissioners applied to the assembly for the inspection of their books and journals. We are not informed whether this application was made with a view to examine their judicial or legislative proceedings. The assembly, as a court appellate, might have had cognizance of many of those cases, which fell under the jurisdiction of the commissioners. Nothing could be more just and equitable, than that all the light possible should be thrown on their enquiries. But the assembly, jealous of their privileges, refused the application, notwithstanding their personal respect for the members, and their entire approval of the object of the commission. It neither comported with prudence nor their dignity to submit their proceedings to the agents of the king. It would serve as a dangerous precedent, which might hereafter be made use of to intrude on the privacy and independence of their body.

THE conduct of the commissioners, on this occasion, did not correspond with their characters of peace-makers and restorers of the public tranquility. Finding that the assembly would not be induced to sanction what they conceived a dangerous innovation of former usages, they forced the journals out of the hands of the clerk.

NOTWITHSTANDING the military force with which the government and commission were surrounded, and the fears and despondence, which the late unfortunate rebellion had left on the public mind, the assembly resented this outrage, with a spirit and dignity, in perfect consistence with the character of their country, and the noble ardor

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of their ancestors. They voted, that the power exercised by the commissioners, in the seizure of their original journals, "could not have been granted by the king, because they found that the same was no where practised by the kings of England;....they therefore declare it a violation of their privileges, and insist on receiving satisfaction for this, and assurance that no similar outrage should be offered in future." When the circumstances of Virginia are at this time accurately considered, perhaps no avowal of privilege was ever more noble and spirited.

THERE is reason to believe, that the jealousy of the assembly was not entirely without foundation. Since the government of the commonwealth, the king had evinced considerable solicitude respecting the proceedings of this body. It has been seen above, that sir Wm. Berkeley had been instructed to procure the erasure of all acts and proceedings injurious to loyalty. The late unaccountable rebellion had probably revived these fears; and the journals were now demanded, for the purpose of ascertaining whether there was any disposition to shake off their dependence on the parent state.

IT is difficult to conceive how Morrison, a citizen of Virginia, and for many years a member and speaker of the assembly, should have been engaged in a procedure so ungracious and unpopular: but the imperfect records of those times leave us wholly to conjecture on this and several other points equally interesting. Even the memory of this whole transaction had been irrevocably lost, but for a letter from the king to lord Culpeper, near six years after: so mutilated and abrupt are the records of the most interesting events, even in the only copy, which has survived.

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THE interior affairs of the country, being now sufficiently adjusted, the governor and commissioners proceeded to the consideration of Indian affairs; a subject, to which their attention was, with peculiar emphasis, directed by the commands of the king and the apprehensions of the people; and whose neglect had been thought, more than any other cause, to have contributed to the late rebellion. An experience of seventy years had evinced the fallacy of the prevailing opinions respecting this people.

NOTWITHSTANDING their ignorance of the arts of civilized life, they were found to possess that courage and sagacity, which often enabled them to baffle the combinations of European improvements. An invincible spirit of independence, a contempt of death, a thirst for war, an ardor and constancy in friendship and in hostility; courage, patience, and sagacity: these were the properties of the North American....and these were all the attributes of heroes.. Their passions had hitherto prevented their doing justice to the character of this people; but the truth was daily manifesting itself, that the Indian was a man formidable alike by the powers of his mind and his body; and the absurd contempt in which they had hitherto affected to regard him, was rapidly giving way to sentiments of apprehension and respect.

Six Nations. THE alarm excited by the Indians on the frontiers, was now increased by the inroads of the Five Nations;* a formidable confederacy, whose em-

* They call themselves Mingos, are called by the French Iroquois, by the English Five Nations, and by the southern Indians Wassawomacs. The Senecas, who live to the west; the Mohawks, to the east; and the Onondagas between them are the elder tribes....the Cayugas and Oneydas are the

pire extended at the back* of the English settlements, from the north of New England to Carolina, on the south ; and westward, as far as the waters of the Mississippi : a tract of country, exceeding twelve hundred miles in length, and six hundred in breadth. Wherever these savage conquerors appeared, the Indian nations terrified at their extraordinary courage, and their high reputation, retired before them ; and, it was owing to one of their irruptions, that the Susquehannas, and other nations at the head of the bay, were obliged to take refuge with the Piscataways and the Indian allies of Virginia and Maryland, inhabiting lower down on the Potomac, which was supposed to be the cause of Bacon's rebellion. This savage republic was, at this time, in close amity with the English at New York ; but the influence of French jesuits and missionaries, according to some writers ; or, as others will have it, the avarice or national antipathy of the Dutch traders,† had inspired them with jealousies of the Virginians, and prompted them to hostilities.

THE advantages, which might be reaped from an alliance with this people were early‡ discerned by the French and English governments, and their

younger tribes. The Monacans, or Tuscaroras, who were taken into the confederacy in 1712, make the sixth nation. The Nanticocks and Conoies, who formerly lived at the head of the Chesapeake, the seventh. *Jefferson's Notes.*

* They carried their arms as far south as Carolina, to the northward of New England, and as far west as the Mississippi.
Colden, Vol. I, p. 37.

† *Colden's Five Nations. Vol. I. p. 37.*

‡ *Ibidem. p. 38.*

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friendship was sought with an anxiety proportioned to its importance ; and their chiefs were received at Albany with the attention due to ambassadors of sovereign states, and with those forms and ceremonies consecrated in their regard and estimation by immemorial usage. The governor of Maryland, terrified by the late destructive visits of this people, was preparing to make use of the influence of New York, to establish a firm and lasting peace ; and the government and commissioners now employed in establishing the tranquility and security of the country, could not easily overlook a people, whose warriors, spread over a great extent of her western frontier, were able so essentially and vitally to affect her prosperity, and even her existence.

BUT previous to any attempt of this nature, it was necessary to open a treaty with the neighbouring Indians ; and in this, notwithstanding the just grounds of distrust, which the conduct of Virginia had excited amongst this people, they succeeded with less difficulty, by reason of the consternation occasioned by the dreadful irruptions of the Five Nations.

APPRISED of the present pacific disposition, deputies from the several tribes, as far north as the head of the bay, repaired to Middle Plantation, and concluded a peace on terms equally satisfactory to all parties ; and, until Virginia could make arrangements for dispatching commissioners to Albany, it was determined to solicit the attention of Maryland, which was on the point of sending colonel Coursey,* as an envoy, to the Five nations, to take care of the interests of Virginia at the same time.

* Colden's Five Nations, Vol. I. p. 38.

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MEANWHILE the report of the peace had reached the remoter tribes, dwelling on the banks of the Susquehanna; and the commissioners, previous to their departure, had the gratification of seeing their sachems arrive, in order to be included in the treaty. So completely had the terror of their Indian enemies extinguished in their minds all jealousy and animosity against the whites. The indisposition of the governor prevented the final ratification of this treaty; but the principles having been previously agreed on, the commissioners departed, and a peace* was concluded, which was afterwards referred to in all discussions and disputes in Virginia.

SIR H. Jeffries, now left to himself, had to encounter the low mutterings and covert intrigues of the disappointed loyalists. Actuated by a sincere wish to heal the wounds of the colony, and to restore to social intercourse that confidence, which had received so violent a shock from the rancor of civil commotion, he forbore to notice this conduct, so long as they were content to confine their resentment to lowering eyes, and sullen and angry visages. But this moderation was mistaken for fear or hypocrisy; and their insolence rose into open reproaches against his administration, and gross personal invective.

IT was no longer possible, consistently with his feelings as a gentleman, or the dignity of his office, to wink at these practices; and having singled out one case of peculiar indecency, he found it necessary to interpose the authority of the laws

Peace concluded with the Indians
Intrigues of the loyalists

* Each town, by the articles of peace, pays three Indian arrows for their land, and twenty beaver skins for protection every year.

Beverley.

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Case of
Ludwell.

to eradicate a mischief, which might otherwise swell into open mutiny.

PHILIP LUDWELL, whose loyalty and courage in the capture of Bland's squadron, has been mentioned above, was, soon after the departure of sir W. Berkeley, deprived of the office of collector, on account of his violent and vindictive conduct during the rebellion. He had suffered, as he alledged, considerable loss by the incursions of George Walklate ; and, as the treaty with this insurgent was supposed to leave all the loyal sufferers their remedy at law, he had sued him for a considerable sum in the county court of New-Kent * Walklate, astonished at a proceeding, according to his opinion, repugnant to the spirit of the treaty, applied to the governor, who granted him a protection, and refused to Ludwell the process of *deditus potestatem*, to enable him to make good his charges.† Irritated by a conduct, which, considering his losses and services, he considered in the highest degree ungrateful and arbitrary, he gave way to the fury of his resentment, and uttered bitter reproaches in all companies against the justice, the honesty, and even the person of the governor.

THE invectives of Ludwell, as they appear in evidence, contain a mixture of the serious and ludicrous, and may not be uninteresting, as they give some idea of the state of manners at this time. He said, " that the governor was a worse rebel than Bacon, for he had broke the laws of the country, which Bacon never did....that he was perjured, in delaying or preventing the execution of the laws, contrary to his oath of governor....that he was not worth a groat in England....and

* Ancient records.

† *Ibidem.*

that, if every pitiful little fellow, with a periwig, that came in governor to this country, had liberty to make the laws, as this had done, his children, nor no man's else, could be safe in the title or estate left them."

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THESE charges the governor laid before the council; and, inasmuch as Ludwell was a member of this body, he forbore, in compliment to them, to bring him before the bar as a criminal, on a charge of treason; and desired their advice as to the conduct, which should be observed on this occasion.

THE council, with a spirit of justice and moderation, determined that the evidence fully established the several charges; but, that a jury should be impannelled, inasmuch as in no case ought they to be judges and jurors. They urged, at the same time, the propriety of appointing a president pro tem.; for, sir William Berkeley being absent, and the lieutenant governor not permitted to sit in the trial of his own cause, without such appointment, there could not, in their opinion, be a fair trial.*

THE governor having given his assent to these regulations, the case was fully heard by a jury before the council, sir Henry Chicherly presiding; and a verdict of guilty was brought in by the jury on all the charges. The counsel, for the governor, immediately moved, that the whole proceeding should be transmitted to the king's majesty and the lords of the privy council, that, according to a statute of the 12th of Richard III. they may advise of some punishment proportioned to the offence. This motion succeeded, and Ludwell was ordered to find bail in one thousand pounds, to answer

* Ancient records.

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and abide the issue of the decision. Ludwell appealed from this decision to the grand assembly, urging that such had been the known usage of the colony. But the court, after some consideration, evaded a direct opinion on this question, by ordering, that the motion for an appeal should be transmitted, with the other proceedings, to the king and council for their advice.* They admit, in their order, that the invariable custom in matters of appeal was, as had been stated by the defendant, and that there was not a single precedent to shake the authority of this usage: yet, notwithstanding these admissions, which certainly decided the point in favor of the jurisdiction of the assembly, they ordered, that he should find an additional security, of five hundred pounds, for his good behaviour to the governor pending the determination.

In this argument, the parties appear to have changed sides. The governor, one of the commission for restoring tranquility, and securing the rights† of the colonists, attempting to introduce the influence and prejudices of a remote, ignorant, and unconstitutional power, to control or defeat the end of justice and liberty....while Ludwell, heretofore, the advocate of high-handed and high-toned principles, and the accessory in a plan of sanguinary proscription, boldly and emphatically asserted the rights of the people, and the independence of the judiciary. But such changes will excite little surprise in any one, even but slightly acquainted with the subtle casuistry of the passions.

It is certain, that the late commission, with much immediate benefit, did introduce consider-

* Ancient records.

† See Report of Commissioners, in Appendix.

able mischief in the colony. Independent of the forcible seizure of the assembly's journals, which has been related, they mingled in their report to the king several observations, calculated to prejudice the political interests of the colony : and all the care does not appear to have been taken by them to guard against those arbitrary principles, which almost invariably succeed an unsuccessful rebellion.

THE death of colonel Jeffries, which happened in the following year, devolved the government on sir H. Chicherly ; and, in order to attach a greater dignity to his administration, a commission of lieutenant governor was forwarded by the privy council. The substance of the public acts of his government are briefly but accurately stated by Beverley. " For the greater terror of the Indians he caused, by the advice of the assembly, magazines to be erected at the heads of the four great rivers, and furnished them with arms, ammunition, and garrisons. An act was also passed for preventing the importation of tobacco, which Carolina and Maryland were in the habit of sending, for reshipment to England." This act has, I think, been censured on just principles, by this historian : " For, had they," says he, " permitted this custom to become habitual, and thus engrossed the shipping, as would soon have happened, they could easily have regulated the trade of tobacco at any time, without the concurrence of those other colonies, and without submitting to their perverse humors as formerly."

In the spring of the following year lord Culpepper arrived, as lieutenant and governor general of Virginia, and brought with him several laws, which the king, by the advice of the commissioners, had recommended to the attention of the ge-

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1678.
Death of
Jeffries.
Sir H. Chi-
cherly suc-
ceeds as
lieutenant
governor.

1679.
Lord Cul-
pepper ar-
rives.

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neral assembly.* But what contributed more than any other circumstance to render himself and his authority respected and agreeable, was an act of general and unqualified indemnity, for all offences committed during the late rebellion; and reparation was allowed to those, who should be reproached for their conduct on that occasion.†

NOTHING furnishes a more striking proof of the state of public opinion, than the effects ascribed by this loyal historian to this act: so true is it, that we ought to look for a true picture of the state of manners and policy, not in the reflections of the historian, but the facts, which he relates.

Complai-
sance of the
assembly.

IN return for this seeming patriotism, the assembly imagined they could scarcely evince too much gratitude and complaisance. They appeared desirous of showing, that though nothing was to be gained from them by violence and pride, there was nothing, which they were not ready to bestow consistently with the interests of their constituents, in requital of kindness and liberality.

THIS principle, noble in itself, is liable to run into a dangerous excess in matters of national policy; and is often attended with the most injurious consequences. Where constitutions are unwritten, and not exactly defined in all their parts; or, where, though tolerably clear on paper, the magistrates are in the habit of exercising their functions with a considerable latitude of discretion, the indulgence of a legislature is often resorted to as a precedent; and popular bounty and generosity thus become the means of creating and sanctioning severe exactions on themselves.

* Ancient records.

† Beverley, 78.

1679.

In the present case, this was certainly the fact; and the assembly, by the favors bestowed on Culpepper, in the overflowing of a generous gratitude, were laying up, for themselves and their children, ample sources of uneasiness and oppression.

THE first symptom of the complaisance of this body, appeared in an act for raising the public revenue, for the better support of the government. The duties enumerated in this act, whose quantum or duration before depended on the temper of the assembly, were now made perpetual; and instead of the wholesome check, which formerly existed, by the revision of the estimate and expenditure by the assembly, they were declared henceforth to be subject to his majesty's sole direction and disposal.

AN acquisition of so much importance to the king's prerogative was compensated by one equally liberal and unprecedented to Culpepper, to whose address it was principally ascribed. An addition of one thousand pounds was made to the salary of the governor, with one hundred and sixty pounds for house rent, per annum.

BUT the assembly were not satisfied with these substantial tokens of royal bounty, bestowed at their expence; unless they were themselves interested in his advancement. It had been usual to receive presents of wine, liquors, and provisons, for the support of the governor's table, from the masters of merchant vessels: he procured the establishment of a regular duty,* proportioned to the tonnage, for every vessel, which entered or cleared out of any of the ports of Virginia.

* 79, Beverley.

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August

Lord Cul-
pepper de-
parts for
England.

HAVING succeeded in these important points, there appeared nothing of sufficient interest to demand his personal attendance in the colony ; and he repaired* to England for the purpose of enjoying the ample revenues of his office. The practice of acting by deputy had, for forty years, been rarely resorted to by the governors of Virginia. Every thing desirable to man might be easily procured within the colony. The richest wines of France and Portugal ; the sugar, coffee, and rum of the West Indies ; the oil and olives of Italy and the Levant ; and the rich spices of the east : these all, with the other various items of luxury, had long begun to be relished by the rich land proprietors ; and the constant intercourse with Britain enabled them to procure them by their merchants in that country, or by the factors or masters of ships, which loaded and unloaded every where on the banks of the rivers. Nothing was wanting but the sports, the wealth, the style and splendor of the mother country ; and these wants were amply compensated by the simple manners, the unaffected hospitality of the Virginians. It was, moreover, the intention of government, that the place of governor should not be a sinecure. It was justly considered an office of trust and difficulty, and that the personal influence and authority of the governor should be always at hand, to allay or repress the ferments of a jealous and high spirited people. It was supposed that the absence

* Beverley, although he certainly had the use of the ancient records of this commonwealth, betrays a want of industry and attention in his statements, which seem to arise from the want of genuine materials. Lord Culpepper remained in Virginia, from the spring of 1679, to August, 1680, as appears by a report of the council of Virginia in 1682 ; and Beverley makes his stay fall short of one year.

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of governor could be only on some extraordinary and emergent ocsasion ; and even then, it had been usual to procure the permission of the king. Lord Culpepper did not wait for those formalities ; and his abuse of this precedent procured, with the forfeiture of his commission, the entire removal of a practice, at once so injurious to the authority of the king and the interests of the colony.

THE government, during the absence of lord Culpepper, devolved again on sir H. Chicherly. Previous to his departure, lord Culpepper received a letter from lord Anglesey, keeper of the privy seal, and eleven other noblemen, acquainting him, "that his majesty had been pleased to appoint them a committee of his privy council, for the inspection and management of all affairs relating to the foreign plantations : and directed him and the council to transmit unto them quarterly, a particular account of all matters of importance, whether ecclesiastical or military, which shall concern the colony of Virginia ; and more especially, what shall be proposed, debated, or concluded, in the council, upon the framing and perusing of laws ; and the present state of the colony, and the obstructions in the course thereof ; and this account to be signed by the governor and council."

IT is not easy to discover the object of this committee. The desire to be informed of the obstructions to the trade and prosperity of the colony, seems to argue a wish to remove them in conformity with the several addresses of the assembly to this effect, and the known wishes of the people : but their wish to be informed, " more especially, what shall be proposed, debated, or concluded, upon the framing and passing of laws," implies something like a desire of exercising an inquisitorial power over the freedom of debate, and the independence of that body. The records state

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1681.

simply, the fact. For the motives and objects of the most interesting measures of those times, we must be content with conjecture.

THE answer of the council to this letter, dispatched after the departure of lord Culpepper, is remarkable for its conciseness and indifference. They state, "that the information demanded, had been *annually* transmitted to the secretary of state; that lord Culpepper had carried with him exact copies of the laws enacted during his residence; that the assembly had lately represented the state of trade; to which they could add nothing, but that it was in a more declining condition.*

THEY wrote at the same time to lord Culpepper, acquainting him with this correspondence. They intreated that his influence might be used to procure a cessation in planting tobacco, and that the soldiers might be paid off; there being no barracks and the people absolutely refusing to receive them, notwithstanding the orders of government, and that regular billets had been made out for this purpose.†

**Discontents
of the peo-
ple.**

MEANWHILE, the rapid depreciation of tobacco, added to the operation of the commercial restraints imposed by parliament, had produced a general dissatisfaction among the people. They had vainly attempted to apply a remedy to the former evil, by procuring the co-operation of Carolina and Maryland. This plan had failed through the jealousy or avarice of those governments; and they were left to struggle with difficulties, which were daily accumulating, and of which they could see no prospect of termination. They could not even hope for the sanction of their own government, which formerly approved a cessation. Other

* Ancient records.

† *Ibidem.*

maxims were now entertained by the executive, more suited to the views of the court; and the enquiry was not, what would be beneficial to the country; but, how will it affect his majesty's revenue?

Most of the evils, which had been complained of during the rebellion, still existed; and it is not improbable, that the fires, which had been kindled by that event, were not entirely extinguished; and that some of the embers lay concealed under the fears of the people and their professions of loyalty, which required only a breath to blow them into a conflagration.

SOME of the best and intelligent patriots, however, deterred by well founded apprehensions of the power of the mother country, were resolved to persevere by way of remonstrance; amongst which number were a majority of the council, and their influence and authority were constantly exerted for the prevention of partial riots and insurrections.

SOME circumstances existed at this time, which rendered this care and vigilance ineffectual. A law had been enacted in 1680, which strictly forbade all masters of ships to lade or unlade, unless at stated places. This was done for the encouragement of towns, which had long been a favorite project of the colony. The execution of this law had been formerly defeated by difficulties, growing out of the circumstances of the country; and it was now attempted to be enforced by penalties sufficient, it was thought, to guard against all future neglect and non-observance.

WHATEVER be the policy of this measure, it was certainly, at this time, most unseasonable and injudicious; and the attempts to enforce a strict execution of its provisions gave rise to insurrec-

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Law
respecting
ports.

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tions, which wanted only a leader of equal talents to make them as formidable as that of Bacon.

WHEN the season arrived for shipping tobacco, the masters of ships, according to former usage, dispersed themselves, for the greater convenience of trade, over the rivers; alledging, that their principal customers found it impracticable to transport their goods to the marts specified in the act; and that there was neither reception nor shelter for themselves or merchandize at those places. Informations were lodged against the delinquents by the proprietors of land contiguous to the markets; and as the prosecution was excited by men so deeply interested in a strict observance of this law, they suffered considerable difficulties and expense; and many of them actually abandoned their voyage. The planters, prevented from selling their crops, partook of the disgust and resentment excited by these regulations, and all men beheld, with the deepest concern, the deplorable circumstances of the country, and the still more melancholy presages of future disaster.*

THE first open expressions of discontent manifested themselves in the counties of New-Kent, Gloster, and Middlesex,* where the people assembled, and drafted petitions to the deputy governor for the summoning an assembly. In other counties their proceedings were not conducted with equal moderation; and, sir H. Chicherly, alarmed at the symptoms of insurrection, which every where appeared, and apprehending a recurrence of those scenes, of which he had been an eye witness and a sufferer,† during the rebellion

* Ancient records.

† *Ibidem.*

‡ See letter to earl of Oxford.

of Bacon, thought it prudent to gratify the wishes of the people; and lest he should be prevented from executing a measure, which he deemed expedient and salutary, he did not take the advice of the council on this occasion. He was aware, from past experience, of the baneful consequences of divided councils. As he was determined on the step, he thought it more honorable to take the whole responsibility on himself; and, as he was unwilling to admit them to a community in the honor, if the issue was favorable, so he disdained to engage them as accessaries in the disgrace, which would not fail to attend an unproductive and ruinous concession.

IN this disposition, he summoned the assembly, which had been prorogued from the 15th of February, in the preceding year, to meet on the 18th of April in the following; and he had the satisfaction to see, that this concession was attended with the immediate advantage of soothing, for the present, the popular ferment.

WE know little of the character of sir Henry Chicherly. There is, however, considerable boldness and liberality in this concession; and although the council thought proper to ascribe the succeeding excesses to this policy, there is no reason to doubt its immediate efficacy in stilling the discontents and clamors of the people. The king, indeed, had commanded him not to summon the assembly until the 10th of November, 1682, at which time lord Culpepper was ordered to repair to his government.*

MEANWHILE the commissioners of the treasury signified the king's pleasure for paying and disbanding the two companies of infantry, and

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1681.

* Ancient records.

Nov. 30.

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1681.

money was sent, with a schedule annexed, to the deputy governor, Nicholas Spencer, Nathaniel Bacon, and Philip Ludwell, or any three of them, to act as a commission on this occasion.

THE assembly, summoned by sir H. Chicherly, at length convened, and proceeded to the discussion of the several subjects, whose importance had given rise to their call, and demanded their most serious attention. But instead of confining themselves to the question of cessation, the speakers, as their fancies led them, launched out into the sea of general politics. The present melancholy state of the country ; the commerce crippled, its productions depreciated by a conspiracy of English merchants, and the want of salutary laws; all confidence destroyed between the people and government; these, and such like topics were handled with a degree of heat, that augured a deliberate and determined opposition. Sir H. Chicherly was disconcerted by the turn the debate was likely to take, and the resolute manner of the opposition. He knew very well, that the picture of public distress was not too highly colored in the speeches of their orators ; but it was impolitic and dangerous to agitate subjects, which would but enflame the passions of the people, and which could receive no efficient remedy, but from the returning reason and justice of the government.*

HAVING vainly attempted to check this disposition, he determined on an immediate dissolution of this assembly, and in order to fix him in this resolution, he received an order from the king, which although dated in January, 1681, did not come to hand until this time, forbidding him to call an assembly, until the 10th of November,

* Ancient records.

1682, at which period, lord Culpepper was directed to repair to his government. Immediately on receipt of this order, he dissolved the present assembly, and issued a proclamation, directing a new election, and summoning the burgesses to meet on the day directed by the king.

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Nov. 10.

THE solicitude displayed by the government of England respecting the acts and proceedings of this body, affords the best testimony of their general spirit and intelligence; and there is strong reason to believe that even so early as this, apprehensions were entertained, that there existed a strong tendency towards independence and republicanism in the North American Colonies. It is known with certainty, that these charges were made formally against Virginia not ten years after.

IT has been an universally received opinion, arising from the want of an authentic history, that Virginia was distinguished for her invariable loyalty, and her submissive and tractable temper, during the greater part of her colonial existence; and it has been customary to contrast her yielding policy with the sturdy patriotism of New-England. Nothing can be more unjust than this comparison, because nothing is more untrue. Without derogating from the well-earned fame of New-England; their noble ardor for liberty, their steady and animated resistance against force and corruption; the conduct of Virginia, from the first moments of her existence, was exactly the opposite of what it has been represented; and although comparisons between confederate states are always invidious, she has no cause or motives to shun them, save those of friendship and affection.

MEANWHILE the people of several counties, having lost all hope of a cessation by the dissolution of the assembly, ran together tumultuously,

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and proceeded to the entire destruction of the tobacco plants in the beds, before they were transplanted. Their proceedings were so timed, that the season was too far advanced to make good the loss by seed; and as the culture of sweet scented tobacco was almost exclusively confined to Virginia, they directed their efforts peculiarly to the destruction of this sort.

SIR H. Chicherly, by the advice of the council, issued several proclamations against the rioters; but as the parties, according to the report of the council, were generally poor and ignorant, it was not thought prudent to proceed against them by a legal enquiry.

WHILST these events were passing, lord Culpepper arrived, and shortly after the assembly convened, agreeably to notice. The arrival of a governor would, at any time, be sufficient to excite considerable curiosity: but in the present circumstances, it was regarded with anxiety and solicitude. He might be the herald of peace and liberty; and was, perhaps, authorised to take off the grievous shackles, which had loaded their commerce and paralyzed their industry. They knew little of the personal character of his lordship: but their conduct, during his former residence, was such as to give him content, and to impress him with a favorable opinion of their manners and liberality. It was not improbable, that he had not been insensible of this conduct, and had made a favorable report to the king. But their past experience had taught them what little reliance should be placed on the king's servants; and that a bare suggestion from their master easily effaced the deepest impressions of colonial bounty. The late riots added to the public anxiety, from an apprehension, that they would serve as a pretext for the introduction of arbitrary measures;

and from a conviction, that though the faint etchings of gratitude soon disappear from the mind of a courtier, revenge, and the spirit of offended pride, indent deeply and indelibly their sanguine lines on his memory.

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1689.

THE countenance and deportment of the governor were thought to have lost that easy smile and bending condescension, which he wore during his first visit. They knew not that the face of a courtier is as much at his command as his wardrobe, and that he can put on a new face to suit the particular character and situation: and perhaps they had forgotten that the easy simplicity of a former assembly had put it out of their power to keep him in good humor, by regulating the essential article of revenue.

EVERY moment's observation took something from their hopes, and increased their apprehension. After the first cold formalities of good breeding were exchanged with the public functionaries, his manners settled down into a severe and gloomy dignity. He demanded of the council, in the name of the king, a strict account of their administration in his absence; and insinuated, in language not difficult to be understood, that to them, must be ascribed the discontents and disorders of the people. The delay of the ships destined for Britain, as affecting the commerce and revenues of the king, was a topic on which he enlarged with peculiar animadversion. He threw out dark and mysterious hints of the consequences of such conduct, and declared his determination to punish with the utmost severity, all those misguided men, who had dared to fly in the face of their sovereign.

His deportment towards the assembly was somewhat less offensive: but still far removed from his former conciliating affability. He dwelt on the king's goodness, in causing the soldiers to

Speech of
Culpepper
to assembly

CHAP. be disbanded at their request, and in granting him
V. authority to raise the value of the current coin, in

1681. conformity with the wishes of a former assembly : in addition to these marks of royal generosity, he noticed the king's desire, expressed to his council of Virginia, to be informed of the state of the colony, and of those disabilities, which obstructed its advancement, in order, as he inferred, that he might know where to apply the healing hand of his royal mercy and clemency. The conduct of the colonists, he was sorry to add, did not seem to merit those concessions ; and he was commanded by his majesty to demand, that a declaration of a former assembly, respecting the seizure of their journals by the commissioners, during the government of Herbert Jeffries, should be expunged from their records, as highly unwarrantable and derogatory to his majesty's prerogative : and that a bill be proposed to the assembly condemning that proceeding, and declaring the full right of his majesty and his officers to call for all the records and public journals, whenever they shall think it necessary for his royal service.

**Opposition
in assembly**

THE assembly, in their reply to this address, expressed their gratitude for the concessions, which had been alluded to. But in discussing that part, which spoke of the king's permission to raise the value of the coin, a warm opposition arose ; and, on taking the question, a great majority were against the exercise of this power by the governor. It was contended, by the opponents of this measure, that the exercise of a power so dangerous would be carried into a precedent, and that future governors would think themselves at liberty to follow so seducing an example ; that specie, which, in a country without credit, was essential to commerce, would be, under this regulation, but as a feather blown about by the breath of a governor ;

and that the people would have no certainty of the value of the coin, which was deposited in their chests or in their pockets. They stated, that the legislature, whose duty it was to enact all laws for the regulation of commerce, both in law and reason, was the only proper organ for the exercise of this power.

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A BILL was accordingly introduced for regulating the rates of the different coins current in the colony; but the governor stopt short its progress, by insisting, that this power was a part of the royal prerogative, which had never before been called in question; and he declared his determination to reject any bill, which the burgesses should pass on this occasion, as an attempt to invade the just powers and prerogatives of the king. The usual mode was by proclamation, and this mode he was determined immediately to adopt, without any counsel or concurrence of their body.

THE proclamation was accordingly issued, raising the value of crowns, six dollars, pieces of eight, from five to six shillings; half pieces, to three shillings; quarter pieces, to eighteen pence; and the New-England coin to one shilling; and declaring, that money tendered at this rate shall be deemed a lawful tender; except for the duty of two shillings per hogshead on tobacco, the quit rents, and other duties payable to his majesty, and for debts contracted for bills of exchange.

January 31.
Value of so-
vereign coin
raised by
proclama-
tion.

HOWEVER the question of prerogative shall be decided, this mode of exercising it was certainly in the highest degree illegal and arbitrary. To except his own salary and the revenues of the king, from the operation of a power exercised contrary to the judgment of the legislature, and in the midst of great public distress, bespeaks a baseness and meanness, of which there are not many examples. These exceptions, in fact, amounted to a new tax,

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and in this light they were considered by the people, who insisted on paying their duties with the coin, at its standard value, in defiance of the exceptions of the proclamation*.

THE governor was unwilling to try the question of law before any of the courts in Virginia. There was something too shameless in the transaction, even for him, to permit it to be discussed and canvassed with the freedom and severity of a legal scrutiny. In this dilemma, whilst he was yet balancing between the fear of shame and the loss of revenue, he hit on an expedient, which he fondly

Reduces it imagined would remove his embarrassment. By
to its former a new proclamation he reduced the rates of the
standard. coin to their former standard.

THE arguments of the assembly, against this stretch of a pretended prerogative, were now enforced and confirmed, and their predictions fully verified: and all disinterested men beheld, with concern, how little respect was had to laws or charters, to natural justice or common decency, when they chanced to interfere with the avarice of the king and his governors.

IT is suggested by Beverley, that money had been put into his lordship's hands for the paying of the soldiers, and that when his project was ripe for execution, he issued the proclamation, and payed them with light pieces of eight, which he had provided for the purpose. But this could not have been. The money destined for this object was never in the hands of his lordship, but of a special commission; and I find, by a letter of this commission to the lords of the treasury, that they had paid off the two first companies, in obedience to their directions, at a time, when his lordship

June 11,
1682.

* Ancient records.—Beverley.

was not in the colony. I am more confirmed in my opinion of the incorrectness of this statement, by observing this historian's inaccuracy respecting the dates of the principal events of this administration. He makes the alteration in the coin to take place in 1680; whereas, the king's instruction is dated the 27th of January, 1681, and the proclamation was not issued until the 31st of January, 1683.*

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IT does not appear that the assembly sat for any considerable time: the records of the colony being entirely silent respecting their proceedings. In all probability the governor was glad to free himself from their importunities by a dissolution. This was a safe and easy way to silence the voice of freedom, and we find that it has been resorted to on every occasion since the year 1676. Although the government was certainly more arbitrary since that period, the assemblies also displayed greater spirit and opposition: and both these facts, which in their nature differ from each other so widely, are proved by the frequent and sudden dissolution of assemblies. It is worthy of remark, that the same power was incessantly exercised about this time in Massachusetts, to break the spirit of opposition in their assemblies: and, perhaps, to the influence of this part of the prerogative alone it is to be ascribed, that the parent state was able for so long a time to preserve her authority in her colonies. In a limited monarchy, this power alone is sufficient for the destruction of liberty; unless there be an efficient check in the legislative right to raise supplies. The people of Massachusetts had been wise enough to retain in their hands the whole of this power, and they were therefore

* Ancient records.

CHAP. less exposed to, or affected by sudden dissolutions. The mad prodigality of the Virginians had impaired the counterpoise to the executive power; and they had no means to parry the sudden stroke of prerogative, unless when the people, enflamed with sudden fury, broke out in insurrections without concert, and consequently without effect.

Governor's severity to plant cutters. THE governor now left to the exercise of functions purely executive, proceeded to a severe enquiry into the late insurrection. The king had instructed him, that the plant cutters, and their instigators, came properly within the purview of the statutes relating to treason, and had commanded, that the rioters should be proceeded against by the attorney-general, and punished with the utmost severity.

THE jails contained several of these unhappy men, who daily harassed the council board with petitions and remonstrances against the length and severity of their confinement. Previous to the arrival of lord Culpepper many had been dismissed, on their assurance of penitence, and the promise of a peaceable demeanor; and it seemed to be the opinion of the deputy governor and the council, that it was more conducive to humanity and policy to avoid, in the present distresses of the country, sanguinary prosecutions. But it did not comport with the dignity of lord Culpepper to enter into any compromise with men, whom his majesty had branded with the epithet of traitors; and the attorney general was immediately directed to proceed against them.

Robert Beverley. THE vengeance of the government was principally pointed against Robert Beverley, clerk of the house of burgesses. This man, possibly the same, who acted, during the late rebellion, with so much activity and success for the restoration of sir W. Berkeley, it has been seen, refused to produce to

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Lord Cul-
pepper go-
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May 9.

the council board the journals of the assembly, and was ordered into custody for what they termed the insolence and contumacy of his conduct. Aware that he would every where be regarded as a victim to tyranny, it was not thought safe to confine him on shore, and he was ordered under the care of the sheriff of Middlesex and a guard to be taken on board the Duke of York, a British ship, at this time lying in the river. His confinement was thought a favorable juncture to get possession of the journals, and a committee of the council was appointed, consisting of Ralph Wormley, Matthew Kemp, and Christopher Wormley, to seize the assembly's papers in the possession of Beverley, and to break open doors if they were refused. The sagacity of Beverley had foreseen this event, and secreted the papers. A new order was made, directing that he should be delivered by the captain of the Duke of York to captain Jeffries, commissioner of the Concord, and a strong guard was appointed to prevent his escape.

It was hoped, by this detail of persecution, to bend him to their purposes. But they had to deal with a man,* who gloried in his sufferings, and, whose spirit rose in proportion to the efforts used

* The story of this man's sufferings bears some likeness to the case of Wilkes. Every fact set down in the account of those times, extraordinary as it may seem, is to be found in the ancient records of this state, now in my possession; and which, after the completion of this work, shall, by permission of Mr. Perkins, to whose friendship I am indebted for their perusal, be deposited in the council chamber, for the inspection of the curious. To these volumes, we are indebted for a knowledge of events, for more than a century, which otherwise would have been lost; and which, though they exhibit nothing splendid, will be regarded by America as a curious piece of antiquity.

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to subdue it. He peremptorily refused to comply with their requisitions ; alledging, that “ his masters, the house of burgesses, had alone the right to make such a demand, and that their authority alone, on this occasion, he durst or would recognize or obey.”

HE was immediately sent on board captain Custis’s sloop, in order to be imprisoned at Accomac. From Custis’s sloop he escaped, probably by the connivance of the sheriff of York ; was retaken, at his own house at Middlesex, and ordered to be brought before the governor and council at Jamestown. His spirit roused under persecution. The board repeated their requisition, and received the same steady and determined refusal ; and he was remanded on board Custis’s sloop, to be imprisoned, agreeably to a former order, at Accomac.

1683.

Sept. 25.

THE voice of Beverley was heard from his prison. He demanded, as a matter of right, agreeably to the laws of England and the colony, that a writ of *habæas corpus* might issue in his behalf, to the sheriff of Northampton. The council rejected this demand, on the absurd plea, that the whole proceeding had been referred to the king for his advice, and that his pleasure was not yet known on this subject. So little were the members of the council versed in law or constitutional liberty, that, although in general well affected to the interests of the people, and no wise disposed to encourage an undue influence in the king or his governors ; they saw not the dangers, which would result from their impolitic and illegal persecution, and that their own interests were inseparably connected with those of the burgesses. It is highly probable, that their dispute with the house of burgesses, during the session of 1680, left some traces of pique and resentment on their minds ; and that they took advantage of the precedent

of 1679, to humble the pride of their antagonists.

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THERE was, in reality, little ground of jealousy on the present occasion. By the constitution of their body, they had a decided superiority over the ill-defined, desultory, and short-lived privileges of the assembly. They were presumed to be always in session, and to hold their offices during life or good behaviour; while the members of the assembly, suddenly assembled, and as suddenly dispersed, presented only a pale and fleeting image of authority.

1683.
Lord Cul-
pepper go-
vernор.

MEANWHILE Beverley was again at large, in defiance of the authority of the council; and no one was able to explain the time or the mode of his liberation. He took no care to conceal himself; and the council, to save their pride, conceived themselves obliged to take notice of a circumstance, which perhaps, they had otherwise no objection to tolerate by connivance.

A NEW order was accordingly issued, that "Whereas, the petition of Beverley, with the other proceedings in his case, had been forwarded to the king for his advice, and no answer had as yet been received thereon, and that to proceed upon the charge against him would speak a want of duty to the king, and of respect to his excellency the governor, who was daily expected; and the board being informed, that the said Beverley was at that juncture at large, which might prove inconvenient, they order him to be taken into custody of the sheriff of James-City, by him to be conveyed back again to the sheriff of Northampton."

Nov. 11.
1682.

BEVERLEY received the information of this order with the utmost indifference. He appeared to consider his sufferings as honorable proofs of his devotion to the rights and privileges of the people, and he would not even get out of the way

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of his pursuers. He hoped, and not without reason, that a persecution carried on, on one side with so much rancor, and so little regard to liberty, and sustained by him with a constancy and ardor, which appeared to defy the malignity of his enemies, would not fail to procure for him a general sympathy; and that the spirit of the assembly, already high, would be roused to a vindication of their former privileges and consequence by his example. He was sustained by these high considerations, which furnish, in reality, the true secret of the constancy of martyrs; and he prepared to encounter with alacrity the new dangers to which he might be subjected, by the malice of his enemies and those of the constitution.

MEANWHILE the execution of the order of council was attended with difficulties, which exercised anew the patience of that body. The vessel, on board of which Beverley had been put to be transported to Accomac, was confined on this side the bay by contrary winds, and the sheriff of York was directed, by a new order, to take him in charge, and secure him at such place as he should deem most convenient, until he was thence remanded.

THE whole history of this event wears something of the appearance of a romance; and when it comes to be known, that not a single trace of it is to be found in any of the historians of Virginia, it will by many well meaning men be thought to be foisted in for the purpose of enlivening the languor of a dull and spiritless statement of facts.

ON the arrival of the governor, the persecution against Beverley assumed a regular and legal shape. It was judged prudent to proceed on grounds less exposed to objection and reproach than had been formerly thought sufficient; and his refusal to deliver copies of the assembly's

journals was now made subordinate to charges of a higher and more serious nature. The accusation consisted of three heads, viz. that he had broken open public letters, directed to the secretary's office, with the writs enclosed for calling an assembly, in April, 1682, and took on him the exercise of that part of the government, which belongs to the secretary's office, and was contrary to his; that he had made up the journal, and inserted his majesty's letters therein, (being first communicated to the house of burgesses at their prorogation) after their prorogation; and that he had refused to deliver copies of the journal of the house of burgesses in 1682, to the lieutenant governor and council; saying, "that he might not do it without leave of his masters."

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1683.

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Pepper go-
vernour.

NOTWITHSTANDING all the time and ingenuity, which had been employed in collecting matter for accusation against him, these were all the facts, or pretended facts, they were able to bring forward; and there is little difficulty in believing, when we consider the history of his persecution, and the arbitrary principles of the executive, that the two first were introduced merely to justify the illegality of their former proceedings, and to cover the weakness and violence of the prosecution.

THE attorney-general was instructed, that by a decision of the king's counsel at law, the offence of the late rioters could be brought under one of the statutes of treason, and he was ordered to proceed against Somerset Davis, John Cocker, Bartholomew Austin, and Richard Bayley. These men were immediately taken into custody, and their trials set for the fourth day of the ensuing term.

FREED from the bold and vigilant censorship of the assembly, lord Culpepper stretched the

January 18.

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pepper go-
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powers and privileges of his office to the utmost pitch of tension ; and he found coadjutors but too pliant or too dastardly in the members of his council. It is difficult to explain the principles on which these men acted. The greater number were naturalized and rooted to the soil. Most of them were born in the country, and all of them had abandoned the hope, and even the wish, of dying in Britain. Their interest was essentially connected with that of the legislature and the colony. The members of the present council, in particular, had occasionally betrayed unequivocal symptoms of public spirit. They had seconded the popular wishes for a cessation, by intreating the sanction of lord Culpepper to this project, and they had suppressed the late insurrection without bloodshed. It might be supposed, that such men would have but small inducements to become accessaries to a governor, who visited the country after long intervals, like a swallow, and who, in a short time, would, in all likelihood, abandon it for ever, in a scheme for enslaving their countrymen and their posterity.

DOCUMENTS, &c.

It has been conceived a better arrangement, immediately to subjoin the documents on which the author has compiled his narration of Bacon's Rebellion, than to reserve them for an appendix. They will furnish a more convenient reference, and they are of such unquestionable authority, that, though differing toto cælo from every account of this singular event, they will produce immediate conviction of their authenticity. Perhaps in a different arrangement, their importance would be merged in the mass of other matter.

SIR,

VIRGINIA is, at this point of time, under the greatest distractions, that it hath felt since the year 1622, when the Indians in one night murdered so many, that they left not 500 alive in the whole colony. At this time the Indians seem to have all conspired, as the others have done near New-England ; and the present danger of this place is the greater, because of their discontents among themselves, which are grown to so great a height, that, for the defence of the colony against the Indians a body of about 500 men are in arms, without the governor's commission, (who denied one to them)setting forth a declaration of their dangers and their grievances, and taking no notice of the proclamation sent from the governor to forbid them and suppress them. They are headed and led by persons of the greatest quality here, which was wanting to them in 1674, when they were suppress'd by proclamation and advice of some discreet persons, that had then an influence over them ; which is now much otherwise, for they are conducted by one Mr. Nathaniel Bacon, who was lately one of the council, and many other gentlemen of good condition ; so that it may be feared the enemy will make great advantage of these disorders in the government, which already wants that reverence that should enable it to protect itself and the publick. The heads of the declaration, the names of the persons engaged, and the journal of their proceedings, are here omitted ; because, sure those gentlemen, who are employed as commissioners from the governor

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Giles Bland.

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and council to his majesty, will be able and ready to represent all the particulars of these unhappy proceedings, which may be the ruin of the most beneficial plantation, that belongs to his majesty's crown, if the good providence of God should not prevent it, by remitting this people and reinforcing the government, which is principally charged to be the occasion of this defection by the discontented party, who, perhaps, are much the greatest number. They complain, that great taxes are imposed upon them every year, by ways very unequal; laying them very heavily by the poll, whereby the poorer sort are in the heaviest condition, who having nothing but their labour to maintain themselves, wives, and children, pay as deeply to the publick as he that hath 20,000 acres. One principal occasion of these levies is said to be, the often meeting of the assemblies, and the very great allowance to them that were as members of it; every burgess being allowed 150 lbs. tobacco a day, from the time they get from home, besides allowances for their man and horses, (for which they commonly charge the country with a hundred pounds of tobacco more) which, by the charge of every county, amount to 500 lbs. of tobacco daily, for their two burgesses, tho' many of the counties are so small that they have not above 500 tithables, and some not so many. And, as a greater weight to this burthen, they further complain, that their burgesses do give to the governor and other great men, gifts, which are also levied by the poll, besides what is laid upon the people by the assembly, by the name of the publick levy; and the justices of the peace for each county (by some sort of authority they pretend to) lay an arbitrary tax, which commonly exceeds the publick levy: for which causes (as is said before) the people began to mutiny in 1674. At this time discontents are stronger grown, and the parties discontented are more numerous and much more considerable; so that the most prudent counsel and applications are most necessary at this time: but it seems here to be very unlikely that the authority and power lodged in the aged governor and his divided council, are able to appear and settle things seasonably and effectually, without the gracious assistance of his majesty and his councils, which may perhaps be opportunely done. Whilst those persons are attending his majesty, who are employed hence by the governor, some sober men here are of opinion, that his majesty may easily do things, which will certainly tend to the quiet and satisfaction of his people, by a few concessions and directions.

1. By confirming every man's property to the present possessors and their heirs, by a power under the broad seal.

2. By enlarging their liberty, in declaring, that all such
as are born there, shall be free born subjects of England, to
all intents and purposes.

3. THAT the act for wages of burgesses be made to ex-
tend no further than the statute doth in England for the
parliament men there.

THAT the tax of 2s. a hogshead, upon every hogshead
of tobacco, be closely applied to publick charges, it being
supposed sufficient to discharge also the wages of the as-
semblymen, and other necessary expences of the govern-
ment; the law expressly appointing, tha. after the go-
vernor is paid his salary, the remainder is to be applied
to other uses of the publick; and no allowance is gi-
ven by that law that any part of it shall be given away:
and if at any time it shall appear, that the necessary charge
of the government shall exceed the tax of 2s. per hogs-
head, that then it be levied by a land tax, which seems
to be most equal imposition, and will generally take off
the complaint of the people....although, perhaps some of
the richest sort will not like it, who hold a greater propor-
tion of land than they actually plant; who may then, by
an expedient very beneficial to the country, lay down part
of those lands, to be taken up by such as will employ it;
by which means the country will be inhabited, and the king's
customs increased, and the people, living near together,
be better enabled in their defence against the common ene-
my the Indians.

SUCH considerations as these are amongst many sober
men here, and may, perhaps, be worth the considering by
such as have the care of his majesty's interest in England;
because his majesty's revenue from hence, which is esti-
mated at more than a hundred thousand pounds yearly,
must hold or be diminished according to the security,
peace, and prosperity of this place, from whence so beneficial
a crop is to proceed and flow into his majesty's treasury.

The account of disorders in Virginia, in a letter }
to Mr. Charles Berne, from Mr. Bland, collec- }
tor of the customs.

From James-Town, dated April 20th, 1676.

MEMORANDUM.

A COMPLETE charter was granted, and passed the of-
fices, but the news of Bacon's rebellion stop'd it in the
Hamper office, and my lord Culpepper being appointed go-
vernour on the death of sir William, obtained, that this poor
charter, which we have, only should be granted.

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bellion.

CHAP. A Review Breviarie and Conclusion, drawn from the foregoing narrative, being a summarie account of the late rebellion in Virginia.

1676.

Bacon's rebellion.

THE first action of the late commotions among his majesty's distracted subjects in Virginia, was mearly on the account of self-preservation against the Indians, who committed several murders, and almost daily incursions and depredations on the inhabitants of that colony.

THE slow and dilatory proceedings to provide for the publick safety :

THE great and heavy impositions of fort-money, and the little or no defence they proved of to the country against the Indians : the pressure of the patent money, a necessary but grievous tax, considering the general poverty of the country ; which tax might have been made much more easy to them, if but a few persons would have followed mr. secretary Ludwell's example, who freely offered to lend the country 500*l* for three years' interest free.

To which may be added, the sudden disbanding the forces raised against the Indians, under the command of sir Henry Chicher'y, knight, general of Virginia, being just ready to march out and disarm the neighbouring Indians

THE refusing to grant a commission for the raising a new force against the Indians, under the command of such a general as the governor should be pleased to appoint, earnestly petitioning and freely prefering themselves to go out at their own charge.

THIS gave occasion to the unquiet unpatient crowd to follow and cry up Bacon, whose forwardness to head them encouraged them to choose him for their general.

IN about 20 days after beating up of drums for volunteers Bacon gains a considerable party, and begins his march against the Indians without any commission.

THE governor and his friends intended to divert his designs, but they cannot.

HE proclaims Bacon and his followers mutiniers and rebels, for going against the Indians without a commission ; follows him with a party of gentlemen to the falls of James river to take him ; returns without effecting any thing.

IN the governor's absence the people below draw into arms, and declare against forts as an intolerable pressure, and of no use to them at all.

THE forts are ordered to be dismantled, and the assembly is dissolved that enacted them, and all to appease the rage of the people, and still their clamours against the government.

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A NEW election of burgesses being now gone forth, the dissatisfied party chose freemen, (not freeholders) that were never before eligible, for their burgesses; putting up a party for their own turn, and at the same time chose Bacon and Brewse burgesses for Henrico county.

AT the meeting of this new assembly, Bacon comes down to James-Town, in a sloop and armed men in her; is shot at, and forced to fly up the river; is pursued and taken prisoner by captain Thomas Gardner, and delivered up to the governor.

BACON is pardoned by the governor, and set at large on his own parole; is reinstated, and sits again in council of Virginia; and, as credible report says, was promised a commission to go against the Indians, for which he waits some time in town; but perceiving himself delayed or disappointed, departs privately without one, and informs the people he cannot obtain one.

THIS enrages the people: whereupon they offer Bacon to go down to town with him themselves, and if they can't gain him a commission by fair means to compel one by force.

THEY accordingly come and surprise James-City; surrounded the statehouse, (sitting the assembly); rage thereat; storm for a commission for Bacon; which, upon the earnest importunity of the council and assembly, was at length obtained of the governor, as also an act of indemnity was passed to Bacon and his party for committing this force; and a high applausive letter was writ in favour of Bacon's designs and proceedings, to the king's majesty, signed by the governor, council and assembly.

IN this interval of time, having taken Larimore's ship, the governor returned to James-Town from Accomack, in company with the ship Adam and Eve, captain Gardner, commander, under 16 or 17 sloops, and about 600 men in arms.

BACON and his party are again proclaimed rebels and traitors, and threatened with the utmost severities of the law: upon this Bacon calls his few men together, and telling them how the governor had proceeded, makes an argument to encourage them (tho' tired) to advance to James-Town against the governor, which they did by the way making up their small number, about 300 men, leading along with them their Indian captives in a shew of triumph, and thereby to gain the affection and applause of the people as they came in..

BACON coming up before the town rides up very near it, sounds a defiance and fires; dismounts, surveys the ground, causes a trench work to be cast up, of felled trees, earth, and brush, made in the night by moonlight; next morning upon day break, a small party of Bacon's run up to the palisadoes

CHAP. and fire briskly on the guard, retreating without any danger or damage.

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BACON gets great guns, and places them on his works, which indeed commanded the sloops ; but though it terrified, could not annoy the town.

NOW, though the governor and his party had by much the advantage of the enemy, both in time, place, and number, the cowardise and baseness of the generality of sir William Berkeley's party, who were men intent upon plunder only, by promises of which he drew them on with him, and to secure which they made grounds at last to leave him, was such, that of all there was only some twenty gentlemen willing to stay by him ; and at last only sir William Berkeley himself, who undoubtedly had rather died upon the place than deserted it, had he not been overpersuaded to it, and hurried away to Accomack against his will.

AND such is the fear of discovery, that for fear they embattled and weighed anchor in the night, and silently fell down the river ; thus flying from the face of a languishing enemy, that had for a week's space lay exposed to much more hardships, wants, and incommodes, than themselves ; for this very service was supposed the death of Bacon, who contracted the disease whereof he dyed, by lying, in a very wet season, in the trenches before the town.

BACON having early intelligence next morning of their having thus quitted the town, enters it without the least opposition ; and, considering of what importance a place of that refuge was or might be to the governor and his party, immediately resolves to lay it in ashes, and the same night set fire to the town, church, and statehouse, which they themselves, who had so basely deserted it, beheld to their shame and regret, as they rid in their sloops and ships a little below in the river ; and the same night arrived two ships more in Virginia, Prim and Morris commanders.

BACON having laid some time of the bloody flux, died at one mr Pate's house, in Gloster county.

AFTER his death the rebel party were headed by Laurence, Ingram and Walklate, and much spoil and rapine done, and little or no considerable service done on the other side to binder them or subdue them ; but only what was done by the seamen, which causes sir William Berkeley to see a necessity to offer Ingram and Walklate terms of pardon, to de-

liver up West-Point, and the plunder they had taken: the governor remaining then on board of a ship in York river, from whence he wrote several complimentary letters to Walklate.

GRANES, the chieftest rebel on the south side of James river, was shot dead by captain Couset; and all his guards, with drums, followers, and ammunition taken. Also about the same time the greatest part of James river declared for the governor.

CAPTAIN Grantham is entrusted by the governor to manage the treaty at West Point, and to receive the country's arms and followers with the plunder; all which he effectually performed, to the ample satisfaction of sir Wm. Berkeley, and peace of the colony; but to the disquiet of divers loyal gentlemen of the country, because themselves were not concerned in so considerable a piece of service.

In fine, what signal service was done, as to the surprising of this rebellion, must be justly attributed to the incessant toil, courage, and good success of those few sea captains, Morris, Couset, Grantham, Prim, and Gardner, who merit this due recommendation; and the more, because the country have been ungrateful to them.

His majesty's colony being thus put into this happy posture of peace, the governor returns to Green Spring, which the rebels had much spoiled and plundered during his absence, and prefixt the 20th of the ensuing month for meeting of a new assembly there, for the settlement of the distracted affairs of the colony.

Thus having given a brief and impartial account of the rise, progress, and cessation of the late troubles in Virginia, with some few reflections thereupon, we shall conclude this narrative, with the time of the governor's return to Green Spring, which was not above a week before our arrival.

And for what relates to the condition we found his majesty's colony in, and such other matters whereof his majesty may expect or command an account, we are in all obedience ready to remonstrate, who are his majesty's most dutiful and loyal subjects.

Herbert Jeffries, John Berry, Francis Morrison.

A true and faithful account in what condition we found your majesty's colony of Virginia; of our transactions during our stay there, and how we left it together; with our most humble opinion what means will best conduce to the firm grounding and securing the peace thereof for the future.

UPON our first arrival within the capes of Virginia, January 29th, 1676—7, we had advice of the death of that grand

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rebel Bacon, his burning of James-City, and the governor's return to his house at Green Spring

THE same day we dispatched letters to sir William Berkeley, to advise him of our arrival, and such particulars as were necessary for his knowledge.

UPON receipt whereof the governor was pleased to come on board the Bristol, then riding at Kigotan, in James river, where we read him over our own commission, and delivered him the several instructions under the great seal and privy signet, together with the printed proclamation, inquiries, and former instructions; as also certain interlocutorie heads in writing, which we had prepared for your majesty's immediate service, for the landing and quartering the soldiers, and preventing any damage to his majesty, as also to desire an answer and account of such other matters as appertained to our inquiry.

UPON further conferences with him we understood that he had executed several persons for the late rebellion, by the power of the martial law, and gave us a list of their names; but resolved for the future to desist from that course, and to let the laws run again in their old channel, pleading a necessity for trying and condemning by the martial law; for that he doubted whether a legal jury would have found them guilty. The contrary he was afterwards sufficiently convinced of when he saw upon the trials had of his majesty's commission of oyer and terminer, that there was not a prisoner, that came to the bar, that was brought in guilty by the jury.

AT first we found the people under a general consternation, by reason the number of the unconcerned in the late defection were so very few, which in our sense seemed to urge a kind of necessity of opening to them your majesty's royal acts of grace and forgiveness, when the whole body of the country lay trembling and in pain in this particular, and many for fear ready to forsake their habitations, and not at such a time to stifle and conceal them from the people, and the rather, because several gentlemen of Virginia had seen and brought with them his majesty's proclamation printed in England, or that we could not conceive amiss for the governor to publish them to the people.

HE told us he would draw and publish a proclamation of his own, with such exceptions as he had latitude to make, which he said at first should not exceed 8 persons, but they proved many more.

AFTER we had opened our own commission for hearing and determining grievances, we found the people generally complaining, and petitioning against illegal seizing of their estates, without any warrant, tryal, charge and conviction;

and of several that came in and submitted themselves upon the governor's proclamation of pardon and indemnity, that yet were imprisoned afterwards, and their estates wholly taken from them, or large fines and compositions paid for them.

FOR so it happened, that none did escape being found guilty, condemned and hanged, that put themselves on trial, there happened to be so much guilt or fear in most men, that there was not a man but would much rather acquiesce to have any fine laid upon him before he would venture to stand to his tryal; so at last this was the question to criminals, Will you stand your tryal, or be fined and sentenced as the court shall think fit?... which latter was, for the aforesaid reasons, laid hold of by all, and a fine laid arbitrary, and without any jury or power by your majesty's instructions, but quite contrary of restitution of pardon, for so we find the words to run; and were not wanting to tell sir Wm. Berkeley, as well publickly as by letter, that we humbly conceived this course contrary to his majesty's royal instructions; and that your majesty pardoned all things or nothing of penalty and punishment, and that there was no medium.

WE also observed some of the royal party, that sat on the bench with us at the tryal, to be so forward in impeaching, accusing, reviling, the prisoners at bar, with that inveteracy, as if they had been the worst of witnesses, rather than justices of the commission; both accusing and condemning at the same time. This severe way of proceeding being represented to the assembly, they voted an address to the governor, that he would desist from any further sahguinary punishments, for none could tell where or when it would terminate. So the governor was prevailed on to hold his hands, after hanging twenty three; eight of which we set at the tryal and condemnation of, and advised that they should be executed in their own counties under small guards, to try the temper of the people, which proved all peaceable.

IN the whole course of our proceedings we have avoided to receive any complaints of public grievances; but by and under the hand of the most credible, loyal, and sober persons of each county, with caution, that they did not do it in any mutinous manner, and without mixture of their old leaven, but in such sort as might become dutiful subjects and sober rational men to prevent

WHEREAS we did, upon the daily complaints of divers of your majesty's subjects, by several letters presented to sir William Berkeley, that it was a most apparent contradiction to the common course of the laws in England to seize or dispose of any man's estate before a lawful tryal and conviction of his crime, and shewed him the opinion of the learned

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Lord Coke positively against it, whereof he took little caution or notice, but writ us word he appealed to your majesty and most honourable privy council, and the learned judges of the law; so we desired him, hat all estates forfeited, and conceived to be forfeited, of any person, as well of such as without any tryal have died in actual rebellion, as of those that have already suffered death, might be fairly inventoried, appraised, after the just value of the time of seizure, and good security given for the preservation of your majesty's right in the said forfeitures, until your majesty's royal pleasure might be known in such cases, and sir William Berkeley's appeal answered; which he not doing, we appointed persons under oath to inquire into and report unto us the true value, number, and name of such forfeited estates, dispossessing none in whose possession they were, but only taking bond to your majesty's use in the mean time, which bonds were delivered to secretary Ludwell, and are fifteen in number; and the first precedent of this nature was made by sir William Berkeley himself, by granting the petition of the widow Bacon to enjoy the estate of her late husband, under the conditions before specified, to which he desired and had our concurrent assent.

AND, for other estates, seized by the governor's party, as by several petitions was to us suggested, and by oaths proved to appear, we also made our general rule to order, that such persons, in whose hands any such goods, cattle, slaves, or servants were, should give true inventory and good security of and for the same, till your majesty shall be graciously pleased to determine concerning the restitution thereof, according as your majesty, in your most wise judgment shall see cause.

And we were then and are still of opinion, (with all humble subjection to your majesty's royal will and pleasure) that such estates, goods, and things, as were plundered or forcibly seized during the late rebellion, and especially since the laying down arms at West-Point, for or by either party, to be restored on both sides, if the same were to be found in specie, and also declared the fining of the people, without any tryal, jury, or conviction, as delinquents, and as some without summons or hearing was and is (in our opinion) against law, and that it looked like partiality and injustice to fine others, when Ingram, Walklate, and Langstone had a free and full pardon from the governor, without any fine or other punishment, who made full restitution of what they had plundered, as well from the Indians as the English, the Indian plunder excepted, which sir William Berkeley called his,

though taken by the rebel Walklate, and had given him by the governor for his good services.

As to the retrenching of the great salary paid to the members of the assembly, upon our special assurance in a publick letter of ours, to the governor, council, and burgesses, and instance afterwards, they have reduced it to as low proportion as it could possibly be brought to, for the members to support their ordinary score at James-Town.

BUT, as to that most important affair of the Indian peace, the breach and want whereof had so completely involved that colony into so much misery, daily dread, and heavy taxes, and occasioned such general dissatisfaction among your majesty's subjects, and was the ground of the rebellion itself, sir William Berkeley nor the assembly, made not the least step or offer towards progress in it; although we had so earnestly recommended and pressed the necessity of it, by our publick letters to the meeting of the assembly, and restance afterwards: as also your majesty, by your own private instructions, regarding his endeavours with our assistane therein, which, seeing he had not done, (upon his departure) the honourable Herbert Jeffries, your majesty's governor now, with our best advice and assistance, hath so effected and performed it, as that not only the neighbouring Indians, that then signed the peace, are highly pleased and satisfied with it, but the equality and justice of it, arriving to the knowledge of other remote Indians, (lately our most implacable enemies) they also are, of their own accord, come in, and expressed themselves desirous and forward to be included in'the same league and amity; but the governor being sick, a further time was prefixt for the meeting on this occasion.

LASTLY, we shall let your majesty know in what condition we left your majesty's colony. As to the peace and settle-
ment of it, we humbly conceive it to be secure and enduring, and that this good peace with the Indians (which we trust also is like to be a long and lasting one) will not a little con-
duce thereto: the people of Virginia (from the great charge
they formerly underwent, and damages they formerly sus-
tained, by reason of a war with the Indians) being now made
sensible how much a peace with them is their ease, security
and interest.

As to the condition we left the army there in, truly it was but bad; for, at our coming away, the day before we sailed, the commissary mr. Needler, being on board us, told, that in captain Middleton's company, there were about 150 sick men, and the officers all sick, and that there was the like number of sick men in every other company; and that their

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provisions had been so far spent (had they been able to march) they must of necessity have been quartered in the country at large.

THE like calamity attended your majesty's seamen, reducing them to the strange degree of weakness, by the violence and various manner of serving them, that it is almost impossible to express ; so we had scarce men to get up our anchor, and not above six weeks provision left us, and the country unable to supply, having consulted the ablest and most discreet gentlemen in Virginia in order to it, who alledged and all agreed, that it was impossible to do it as your majesty's service required, so nobody would undertake it.

As to any fear or likelihood of future commissions and insurrections, there is not the least ground or appearance, but perhaps of some petty breaches of peace among the disagreeing parties, that may happen, by reason of recrimination and frequent aggravations, frequently used on both sides ; for prevention whereof, and securing a good and firm peace for the future, in that your majesty's colony, we shall, with all humility, lay down our best opinions and judgments as follows :

1. THAT a general penal act of oblivion, by your majesty's command, be prescribed and drawn up here, and sent over to the governor and assembly of Virginia, and they enjoined to publish and pass the same, which of themselves they will never do.

2. THAT a good fort being ordered to be built at James-Town, the ancient and most convenient place for one, as also for the statehouse, where the brick work may yet be serviceable, that your majesty may be pleased to order the erection of both these, tho' by a single supernumerary vote the last assembly they were for moving the statehouse elsewhere.

THAT a certain number of the seasoned soldiers may remain in garrison there, for the maintenance whereof, without being a charge to your majesty, or burthening the people, we most humbly propose, that the quit rents of the colony, which is of small account to your majesty, and comes not into your exchequer, may go and incur the end and purpose above proposed : as also, that your majesty will please to order the assembly to lay such an imposition on liquors imported there, as in your majesty's island of Barbadoes is raised, and employed for the like end, which will both build a fort, and maintain the soldiers therein.

3. THAT, for the future, the Virginia ships go in fleets every year, accompanied with one of your majesty's frigates, until such time as the peace of the country be so firmly grounded as not to be shaken.

4. THAT the act of attainder passed by the last assembly, be, by your majesty's commands, repealed and taken off to all those that are not excepted by your majesty's proclamation, and such as are out of rebellion and fled from justice; which act had not been made or consented to, but that the governor refused else to pass an act of oblivion, which, in effect is little more one than by name only.

5. THE independent plantations of Carolina and Maryland being at present very prejudicial, will, in time, prove utterly destructive to your majesty's interest and government in Virginia;

THEREFORE, we humbly propose, that with a salvo to the right of the honourable proprietors, the jurisdiction and power of government may so reside in your majesty, that they may be readily obedient to all orders, rules, and process of your majesty and most honorable council; else your majesty will not only find you have given away a great deal of land, but so many subjects also; and the next generation they will not know or own the royal power, if their writs, tryals, and process be permitted to continue, as they now are, in the names of the proprietors, without any salvo of allegiance to your majesty; and it is daily seen, that not only men servants, but also runaways, rogues, and rebels, fly to Carolina, on the southward, as their common subterfuge and lurking place; and when we remanded some of he late rebels by letters, could not have them sent back to us.

WE should not have presumed to present this to your majesty did we not confidently believe, in our humble opinions and judgments, that what we have informed or humbly propounded to your majesty, is true, and for the peace and happy settlement and advantage of your majesty's colony of Virginia; which, as it has been the unwearied diligence and endeavours, so it is the hearty prayers and desires of your majesty's most dutiful faithful subjects and servants.

John Berry, Francis Morrison.

To compile the narrative from whence the Breviarie and Conclusion is drawn, which is, indeed, a scandalous libel and invective against sir William Berkeley and the royal party in Virginia, Robert Holdon, John Langston, and many other of the most eminent rebels, were sent for by particular warrants, signed Herbert Jeffries and Francis Morrison, and delivered to mr. Wright, under sheriff of James-City county, by mr. Sherwood, requiring them to appear before them at a day and time prefixt, to testify what they knew concerning the proceedings of William Berkeley, knight, &c.these warrants not being directed to be executed, as usual, and to

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be kept by him, but to be delivered to the parties themselves; and he doth testify that there had been none of the warrants of this nature but went directly to such persons as he knew to be notorious actors in the rebellion, as appears by certificate under his hand, dated August 7th, 1677.

THE proceedings of sir William Berkeley to provide for the publick safety were not slow nor dilatorie; but he sent orders to the heads of the rivers to draw of the smaller plantations, and placed many of them together for their natural safety, and summons the assembly. The assembly met, resolves on such courses as he knew most expedient for the publick safety.

SIR Wm. Berkeley accordingly prosecutes the resolutions.

THOSE great and heavy impositions were lawfully imposed, and without such impositions the publick safety could not be provided for.

THE imposition of a tax for raising money to buy the patents was done by the assembly, and sir Wm. Berkeley received no advantage by it, but colonel Morison did.

THE stopping the forces going out under the command of sir Henry Chicherley, was very prudent, when there was a necessity of calling the assembly; and if sir Henry had not been stopt, colonel Morrison has no assurance of what his success might have been.

IT would have been very imprudent for sir Wm. Berkeley to have relied on volunteers for the publick safety, when another and better course was appointed by the assembly and council; and that this was mere pretence appears when Bacon had extorted a comission in the next assembly, for then the charge of the country was greater.

SIR William Berkely had not done his duty, had not Bacon and his followers in arms been proclaimed rebels and traitors, as likewise if he had not endeavoured to suppress his rebellion.

SIR Wm. Berkeley endeavouring by all means the peace of the colony, dissolves the old assembly, and calls a new one, and by the choice of Bacon and Brewse, in Henrico County, he had cause to doubt, the choice in all other counties having been regular.

BACON being taken, if he were thus pardoned by the governor, it gains great evidence how unwilling he was to shed blood, which in other place is laid to his charge; and though the event may make some conclude, that another course would have been better, yet sir William Berkeley's knowledge of the ill temper of the assembly, which was much infected with Bacon's principles, (as is said) might be the reason of his endeavouring to win him by lenity, to make him use-

ful in that juncture of affairs. But Bacon, knowing his fortune more desperate than it could appear to others, and that he had no visible way of support, resolves to fish in troubled waters ; steals out of town draws the rabble together, surprises James-City, surrounds the statehouse, the assembly sitting, and by force extorted a commission for general, an act of indemnity for himself and party, a letter to his majesty, and several blank commissions.

AFTER which, sir William Berkeley (to prevent further mischiefs) dissolves that assembly ; nor is it to be wondered at, that he did not immediately put forth proclamations to undeceive people, because he had then no means of securing himself, nor forces to have maintained such a proclamation by ; but he took the first opportunity he could of doing all this, which when Gloster county (having been plundered by Bacon, before his going out against the Indians, of their arms, which left them exposed to the Indians) made an address to him, who imminently repaired thither. But Bacon having advice thereof sent him by Laurence and Drummond, and coming speedily down with his whole force, he was compelled to leave the place and retire to Accomack, and endeavouring in all places, and by all means, to maintain the government, and not leaving it, as is here asserted, in the hands of the rebel Bacon. Bacon then summons the people, and imposes his most wicked oath on them.

LARIMORE's ship is seized by Bland, made a man of war, by putting more guns into her, and sent over to Accomack to take sir William Berkeley ; but is itself retaken by his men, sent under the command of colonel Philip Ludwell, and by the taking of this ship the colony preserved to his majesty ; for there being fifty sail of ships gone to Virginia from London and the out parts, before any embargoes were laid, they would have all dropt in, one after another, and been taken by this ship, if she had not been thus retaken, and what the consequence of that would have been is left to consideration : but colonel Ludwell's reward for this great service was, to be turned out his office by colonel Jeffries, as soon as sir William Berkeley was gone for England ; and if this had not been effected, neither Morris, Couset, Grantham, Prim, or Gardner could have defended themselves against Bacon's sea force, though they deserved well by assisting the governor to reduce the rebels.

BACON, after this, resumes his Indian design ; that is to say, kills and takes some few Panunkey Indians, whom he himself, afore he had any commission, forced or frightened them into the woods, to become enemies to the English, if they were so ; and in all this relation there is no account of

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any innocent Indians being taken or killed by Bacon and his party.

THE governor, having taken Larimore's ship, returns to James-City, with such men as he could get to follow him, (for he had not so much as one soldier in his majesty's pay) and all those he had were provided for sir William Berkeley at his own charge, (for the taking any thing from the rebels is imputed a heinous crime to those from whom they had taken all) and by what they performed is to be seen how little he could rely on volunteers, who are more apt to command their officers than to be commanded by them; neither can the ill success be imputed to sir Wm. Berkeley, who was not wanting to perform his part, but could not with twenty men stay in that place when the rest were resolved to quit it, nor punish them at that time for their disobedience.

BACON enters James-City and burns it, (very soldier like, and with great judgment, these volunteers say) which was rather an evidence that his case was desperate, for he certainly had preserved it for his own accommodation, if he had not thought it; or intended, by making his men guilty of wicked acts, to engage them further in so bad a course. He doth not long survive this and his other villanies, dying of the bloody flux, or lousy disease, or both; and sir Wm. Berkeley had the honour, by his prudent conduct, (notwithstanding his great age, and the weakness of his body, brought on him, or much increased, by the fatigue he underwent in the continued duties of his charge) to reduce the whole colony to its former obedience, due to his majesty, without any assistance either from England or Maryland, or any other part; and to leave it to his successors in perfect peace, if the opinion of my lord Coke coming among them, and the countenancing the most active abettors of Bacon since the arrival of his majesty's commission, and discountenancing those, which lost their estates and hazarded their lives in his majesty's service, have not infused new boldness into those ill men to attempt new disorders. The last letters give cause to suspect it, but God avert it.

IN the account of the transactions in Virginia, in that part of it, which concerns sir William Berkeley, which is given under the hands only of sir John Berry and colonel Morrison, they object the executing of several persons by martial law, all which executions were during the heat of rebellion, when sir Wm. Berkeley had no place of strength to secure them, nor guard whom he could rely on to keep them; and as he told them he had great reason to think a legal jury would not have found them guilty, neither could he be convinced to the contrary by what he saw afterwards, of the tryals of ten

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of them by the commission of oyer and terminer, though they were all found guilty by the jury; for these persons were not brought to their tryals before the country was wholly reduced by him to perfect obedience, and after that his majesty's forces were arrived, and there was a sufficient strength to justify the law: but it is certain all the persons executed by martial law were notoriously guilty.

WHETHER there was a great necessity of opening his majesty's royal act of grace and forgiveness in that juncture of affairs, may deserve a further examination; but no gentleman of Virginia could see or bring over with him his majesty's proclamation without their communication to whom only it was entrusted.

THERE is no proof made of the seizure of any man's estate only during the heat of rebellion, or such men's as were attainted by act of assembly or fined in a court.

THEY are impatient of the least irregularity of the governor or royal party, of which they are strict inquisitors.

AND though they know well, that sir Wm Berkeley had his houses burnt in James-City, his dwelling house at Green Spring almost ruined, his household goods and others of great value totally plundered, that he had not a bed to lye on; two great beasts, three hundred sheep, seventy horses and mares, all his corn and provisions, taken away, and the rest of the royal party as ill handled, they cannot endure they should have any sense of their great losses and sufferings, nor give them any better names than the worst of witnesses, when they take notice of such things to the actors of all those mischiefs coming to a legal tryal, by which they were justly condemned, they themselves being judges, which make these reports; since which they have also protected a notorious rebel from being prosecuted by course of law in the courts of justice.

How they have in the whole course of their proceedings avoided to receive any complaint of publick grievances, but by and under the hands of the most credible, loyal, and sober persons in each county, with caution, that they did not do it in any mutinous manner, and without mixture of their old leaven, but in such sort as might become dutiful subjects and sober men to present, appears by the certificate of mr. Wright, above mentioned dated August 7th, 1677.

As for the particular cases given in (which they aggravate as much as possible) they were taken after sir Wm. Berkeley's return for England, and being not indifferently stated, no particular answer can be made to them till they are returned again to Virginia, and if they are further insisted on, it is not doubted they will appear slight and frivolous; and

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it is very remarkable, there is not one private grievance brought against sir Wm Berkeley before this rebellion.

ALL these things considered, sir Wm. Berkeley had great reason to differ from the opinion of the learned lord Coke, mentioned by the commissioners, and to appeal to his majesty and most honourable privy council, and the learned judges of the law, who, 'tis hoped, will find excuse to justify sir William Berkeley's proceedings, which, when the case shall be better stated, and better understood than yet it is, will be found to have been entirely for the good of the colony and his majesty's service, though to his loss and ruin.

The title is—An Answer to the Objections against
sir Wm. Berkeley, in justification of his proceed-
ings.

CHARLES R.

TRUSTY and well beloved, we greet you well, having received a report in council from our council of trade and plantations, upon the petition of Sarah Drummond, relict of William Drummond late an inhabitant of Virginia, wherein they represent unto us, that they have read the same petition, setting forth, that the petitioner's husband was after the late rebellion in that our colony, taken, stript and brought before sir William Berkeley, our then governor there, and by him immediately, (though in time of peace) without laying any thing to his charge, sentenced to dye by martial law, although he never bore arms in any military office, not being permitted to answer for himself, or received to tryal according to the known laws of this our kingdom; but within four hours after sentence, being hurried away to execution by the said governor's particular order, who before that time (upon some private grudge) had vowed that the petitioner's said husband should not live one hour after he was in his power. That although the said William Berkeley did invest the widows of the rebels (that were either killed or executed) in their husband's estates; nay, even the widow of that grand rebel, Nathaniel Bacon, the only person excepted by your pardon, yet so great was the said governor's inveteracy against the petitioner's husband, that he did not only take away his life, but caused his small plantation to be seized and given to himself by the council, his goods to be removed and embezzled; and for it the petitioner with her five small children, to fly from their plantations, and wander in the desarts and woods, until they were ready to starve.. but at the arrival of our commissioners (upon giving security) the petitioner was, by their charitable compassions, re-invested in the said plantation, and a small remain-

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der of her said husband's personal estate, until such time as our pleasure should be known; without which she and her five children must have inevitably perished...and therefore humbly praying, since her said husband was sentenced and put to death, contrary to the laws of this our kingdom, and since we were pleased to grant him (among many others) a pardon, in case he had been culpable, that we would please to order the petitioner to be restored and confirmed in whatever estate was taken from her husband, as aforesaid, particularly to her plantation and the crop now upon it, and that the security given to abide our pleasure, may be cancelled and given up; and our said council further representing, that they have discoursed with our trusty and well beloved sir John Berry and colonel Morryson, our said late commissioners for the affairs of that colony, touching the truth of the petitioner's allegation, and find the case in all the parts thereof to be very deplorable: we have hereupon thought fit to signify our pleasure unto you, and to require and authorise you, our lieutenant governor and council of Virginia, to give all sort of assistance for quieting the said Sarah Drummond in the possession of all she hath and enjoyment of the present crops, as also in the remedy of what she is not hitherto restored unto, or the value thereof, in whose hands soever the same may be found. But our pleasure is, that the security she hath given be not cancelled, but that you cause her to give such further security, for what else may be restored unto her, as you, our said lieutenant governor and council there shall think fit, and so to remain until they receive our final determination upon the whole matter, and so we bid you farewell.

Given at our court at Whitehall, the 22d day of October,
1667, in the 29th year of our reign.

By his majesty's command.

H. COVENTRY.

To our trusty and well-beloved Herbert Jeffries, esqr }
our lieutenant governor, and the council of our colo- }
ny of Virginia, in the West Indies }

London, November the 28th, 1677.

(To Secretary Ludwell.)

THE great joy of solemnizing the happy match between the prince of Orange and the lady Mary, so retards all business, that we know no more what settlement will be made in Virginia affairs than you do there; but that you may guess at what is likely to be, (for I can do no more) I shall send you account how far we have proceeded. We have delivered

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in our papers ; which are, first, How we complied with our instructions ; next, a narrative of the rise, and management of the war, (which we were enjoyned to enquire into and report) ; then, a relation how we found the country and how we left it, and what we humbly conceived to be the best means to keep it in peace and quiet for the future ; lastly, a list and character of all the royal sufferers, that we knew of, not excluding o' hers that we heard nothing of, but left them to a further information. The articles of peace were read in the cabinet council and approved of there, but were transferred (as all things are concerning the plantation) to the lords for the committee of trade. Our first summons there was concerning mrs Drummond's petition All we could say in that was, that the general report from all hands was, that he was barbarously treated ; stript before conviction, his ring tore off his finger, condemned at one o'clock, and hanged at four : but for his guilt, we said, that was as great as the worst of the rebels. After the petition was read, my lord chancellor was pleased to say, he knew not whether it were lawful to wish a person alive, otherwise he could wish sir Wm. Berkeley so, to see what could be answered to such a barbarity, but he had answered to it before this. The woman had an order, which was afterwards confirmed by the king and council, that she should have all her estate restored, but that her security should be continued, or rather another added, since her particular must come under the general rule ; and his lordship said, that sir Wm. Berkeley's act of attainder was only intended by him for an act of indemnity for himself, and his lordship then declared, if there had been any power of martial law it was a part of the civil law, by which no estates are forfeited. I, sir, told your brother all this at my first landing, but he treated it with so ridiculous arguments, I hope they will never question the legality of these tryals for his sake and my poor nephew's. I hear mr. attorney-general is ordered to draw up an instrument to quash that bill of attainder. Our next summons was concerning the articles of peace, when my lord Berkeley was present ; who being in the council chamber, before the lords sat, met with sir John Berry, who, with an angry voice and a Berklean look, told sir John, that he and Morryson had murdered his brother. Sir John as sharply returned again, that we had done nothing but what we durst justify. His lordship replied, he knew we were doing enough When I came in (for I was not there at first) he fell upon me, taxing me with ingratitude, loading me with more obligations from his brother, than the whole family had done to the whole world ; and indeed spoke of me as if I had been a servant,

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(and that a mean one too) in the family, and not an honour of it. All that I answered was, that I should appear ungrateful if I should say I was not obliged, because his lordship said I was; and to shew how innocent I am of that, I could tell his lordship one great obligation from his brother, that his lordship never heard of; but I thought that was fittest for privacy, it was so very great. But if he urges me again I do assure him, the whole board shall be judge of it. I also told his lordship, if we had injured the deceased sir Wm. Berkeley, it must either be in the country or here. In the country all our transactions passed by letters, to which we referred, having never had half an hour's conversation with him, but in open court. If his lordship thinks it to be here, it must either be in our narrative of things, not acted while we were present (though commanded us to inquire of); therefore if we were misinformed, it was no misinformation of ours, since we took the best means to know the truth of every particular; and we desire, that several royal persons here, that were then in Virginia, may be examined in every particular of it, and we should be very glad to find ourselves deceived in any thing, that intrenches upon sir William Berkeley. For the personal grievances laid to his charge, we left them to the proof of those that came thither to complain of them. At this his lordship desired a copy, which he would pay for and keep as records. It is thought his lordship will not be present at any more hearings; nor, indeed, need he, for we have used no epithet unbecoming sir Wm. Berkeley's character. Our business we were sent for was to make enquiry and report, and therefore I think we could do no less than we have done. I am sure mr. secretary Coventry says, he will vindicate me to all the world; that, neither before my going, nor after my return, I have offered any thing to king and lords, but with a respectful tenderness to sir Wm. Berkeley, nor have we ever spoke of his lady, but with a civility that belongs to her sex: though she was pleased to tell madam Jeffries, she wondered I would be so impertinent as to go to Virginia, where I was so hated, that the people would tear me to pieces. Pray remember my service to her, and tell her ladyship, she was very uncharitable she would not forewarn me of the danger I went to; but I did not mind it, for I had no guns shot off, nor bonfires made for joy of my going away. I will not send you the list of the loyal sufferers, because I know two or three copies are sent in by alderman Jeffries. I wish there could be as ready a way found out to recompence them as we were ready to present them with their just character of worth and loyalty; but of this let me assure you, that neither out of affection nor hatred have I mentioned.

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or omitted any one, as it appears in the character of Beverley. I think we have given him his due of the best side, but not in the worst; for if all be truth that is spoken of him here, he is the veriest villain that ever breathed. But let him be what he will, let him know we have given in his four scandalous petitions he sent us aboard, which state answers to Howard's clerks and secretaries complaints against him. I believe it will be found, that the king and lords, before our hearing it, will take that measure, that all goods in specie, at the making of our order, shall be returned on both sides; then, if he has embezzled any part that was in his custody, he shall dearly pay for it. How his majesty will dispose of the delinquents we are altogether ignorant of; the most think they are so inconsiderable, that they will be granted to the paying of the debts, and for a provision of those who were executed.

I FEAR, when that part of the narrative comes to be read, that mentions the Gloucester petitions, your brother may be prejudiced; for there are two or three that will be summoned, will lay the contrivance at your brother's door and Beverley's, but more upon your brother, who, they say, was the drawer of it. For, at the first sight, all the lords judged, that that was the unhappy accident, that made the Indian war recoil into a civil war; for the reason you alledged, that bond and oath were proffered the governor, intended, not against Bacon, but the Indians, confirmed the people that Bacon's commission was good, it never being before disavowed by proclamation, but by letters writ to his majesty in commendation of Bacon's acting, and copies thereof dispersed among the people. All I can serve your brother in is to silence them so far as not to name particular persons, a thing we have always declined in our papers. Really, my secretary, the service I do your brother in this, and whatsoever may come in my way, is mearly upon your account; for none would attempt a more ruinous design against our reputations than he did, by that libellous letter he writ to Alexander Culpepper.

I FORGOT to let you know, that when the articles of peace were ordered to be printed, some complained there was too much land taken up, which gave a great minister a hint to say, that there was a sore place under that, which was to raise great fees to the secretary, of which he would speak another time. This made alderman Jeffries and myself think you are not so well with the minister as you thought and I hoped. I am resolved next week to go to him, and to desire to know if any person has, since you went, made ill impressions on him: we judge it must either be

from one that is now with you, or from Bland's family. Sir, one of them lately, as I heard, said, that though you was not there, your brother was, to ridicule Bland on his tryal I sent the person word, that he much wronged him, for to my knowledge he refused to sit, but commanded by the governor, that he was silent, though all besides spoke at the tryal. Mr. secretary, assure yourself, you shall in all concerns find me a true and constant friend, though I must confess, I cannot but sometimes reflect on the occasion of my ruinous voyage I am sure, I and my poor family will find (without the king's money) the sad effect of it. I have been ten weeks in town already, at the expence (when least) of six pounds a week, and yet I am no further, or see any hopes of a return. My wife is now in town, who will write to you, and give you an account of the fair Constantia, who is now at Holiport, and had come up, but that she is troubled with a great cold I will not wrong you so much as to doubt of your care of her concerns, there never was a woman more deserving than she, which I am sure you believe; but if you knew what proffers she refused, without so much as giving a hearing, lest she would stain her unspotted, unblemished constancy, you would say more than I.

ALL that I desire of you, besides the justice of believing me your real friend, is so to stir up my nephew, Charles Morryson, as that he punctually sent a hogshead of old Deacon's crop of fallers neck, by Pride Morrice, in one of the James river ships Let him send the bill of lading, to be delivered in my name, to messrs. Brown and Saunders If you knew how sneakingly I look in that family, till that is performed, you would not blame my care to have it, to come out of that debt, which I am sure will never be but by your solicitation. Charles is a fool, if he does not perform his promise, for if he fails I will never give him a penny whilst I live. Sir John Berry overpersuaded me, else he had not had the gun, which cost 8*l.* at the first penny.

IF this courtesy is not enough to shew your friendship, pray send me what birds and squirrels you can, to make me friends, which I assure you shall be yours for turkeys &c. Dear, I expect them not from you, having friends of your own to oblige; but pray let all mine there know, that I shall take it for an obligation if they send me such, since 'tis the only bribe I will own or take. Any master I am sure will be careful of them.

DEAR sir, tho' I profess to hate writing, yet I do not shew it, when I have wrote all this to assure you of this short truth, that I am, and will ever remain, your faithful affectionate servant,

FRANCIS MORRYSON.

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HARRY NORWOOD came yesterday out of Holland. I have not seen him yet, but will shortly, and press him to sign that, which he has not done: the neglect, as things look, may be dangerous.

SIR, I had almost forgot to tell you, that I stopt a petition against you, for putting out one Whitehead from his clerkship. The petition suggests, that it was for no misdemeanor in his office, but upon a mere trick betwixt your brother and him. The petition was in the hand of a near attendance to his majesty I promised you would either restore him, or send a just cause of his turning out.

To the right honourable sir Henry Chicherly, knight, president, and the honourable council of state.

The humble answer of Philip Ludwell.

WHEREAS, I have, by your honour's favour and justice, received a copy of a letter from the right honourable Herbert Jeffries, esqr governor, &c. containing in it the nature of an information charged against me, of high misdemeanors, committed against the authority of his majesty's government here, and also such time as your honours thought meet for my answer to the same, which in all humility I here present to you, as far as the nature of the charge will allow me, it being in general terms, and I altogether unacquainted with the import of those evidences taken against me, mentioned in the first letter or charge. I most humbly desire, that if it shall be found necessary, upon the opening the delimus, and examination of the evidences by virtue thereof, that I may have liberty and time allowed me for a further answer to what may be objected against me.

I HUMBLY conceive it may be allowed, that a man may speak his own merits without vanity, especially where life or estate, or, which ought to be more dear, reputation, is concerned. I shall, therefore, humbly beg your honours' leave to give you a short review of my services, and then of my sufferings for those services, to preserve the authority of his majesty in this country, in the person of sir Wm. Berkeley, his majesty's governor, &c. and for the interest of the whole country, which I doubt not will appear to all the world, without contradiction; that I was with sir Wm. Berkeley, and consequently followed and obeyed him, from the very beginning to the end of the rebellion, I am confident cannot be denied, and humbly hope no fault can appear against me in any station during those times. It will also appear, that when sir Wm. Berkeley had not (by the general defection) one foot of ground on the western sh're he could with safety stand on, I was one of the few that accompanied him to

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Accomack, where we had not long been, but Bacon pursues us with captain Larimore's ship, with 16 guns in her; a small bark, with four guns, and a sloop, in all which were 250 well armed men, under the command of Giles Bland and captain Wm. Carver, the latter being a very good seaman, and a stout resolute fellow, and also a vessel of about 90 tons, being newly come in, which mr. Bland seized in his voyage over, and made prize by Bacon's law and for his service.... Whilst affairs stand in this miserable condition, God Almighty gives a signal token of his mercy to us, by stirring up honest captain Larimore to promote his majesty's interest, by the preservation of his country, by sending a note privately on shore to the governor, that if he would send him force he would deliver up the ship to him, which the governor suspecting, from the ill character unjustly given him of captain Larimore's loyalty, commanded my advice what was best to be done in this conjuncture of time, and I advised him to accept of the offer, because our condition was every way as desperate as that seemed to be, and consequently no choice left us, and offered myself to go on board; so, on my humble request the governor presently gave me a commission for it, with which I went down immediately to the water side, and with twenty six men besides myself, in two small boats, got on board the ship, took her and the other vessels with all their force, disarm the men, and send mr. Bland and Carver on shore prisoners, with as many of the others as we thought convenient.

THUS have I given your honours a brief account of this kind of service; which tho' it wants many of its just circumstances, I fear may seem tedious to you, but I humbly beseech your honours to consider the benefit that in all likelihood accrued by this fatal blow to Bacon's designs; for with this force he must be concluded absolute master of every man's fortune in this country, and with that, every merchant's ship that came in, of which there were twenty before his majesty's ships arrived, and although some of the merchant ships arrived were of considerable force, yet coming in without any notice, which they could not have without a miracle, might easily have been surprised. If this had happened, then I beseech your lordships to consider whether this might not have put his majesty's ships in some hazard, considering that although sir John Berry is, without all doubt, a gentleman of unquestionable conduct and courage, and would not have valued much a greater number in a larger room, yet, being in a narrow river, whether Bacon might not have burnt or otherwise destroyed them. 'Tis impossible, it may be said, but that when his majesty's forces appeared,

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Bacon would have resigned; the like-lihood whereof may be guessed by those oaths he imposed on the people, to oppose any forces his majesty should send in, and also by his declarations to the people, but I shall leave this to your better consideration

BESIDES this, (most honourable gentlemen) I do aver, that after my coming unto York river from Accomack, by another order from sir Wm. Berkley, I was the prime cause of taking away and securing four of the enemy's sloops, which was all the vessels they had but one small ship, which we had also secured, had she not been removed two days before, and hauled up where we could not come at her. This was no small discouragement to the enemy; neither was it performed without great hazard, as many can witness.

I DOUBT not, most honoured sirs, but most of you here know, I was never wanting, at all times, to oppose the rebels all I could, with all diligence, hazard, and hardships. I will not presume to trouble you further with this, but humbly beg your patience, while I say something of my sufferings for my thus serving his majesty, under the command and conduct of his governor sir Wm. Berkley, according to my duty and allegiance. The ruinous condition I was left in I hope is not unknown to your honours here present, and I am sure to many in the country besides; being plundered of all in their reach, both without and within doors, besides my books and papers to a considerable value.

YET, I give God thanks I was not so much concerned at this (tho' their malice reached to all that had relation to me) as I was joyful for the happy restoration of the country, having the faint hopes of such a settlement as that we might enjoy the poor remains of our fortunes in peace, and that the laws might have their former vigour, (which for some months had been wholly laid by) so as by them every man might recover what should be found in justice to belong to him.

BUT I did not long enjoy the effects of these hopeful considerations; for, although I applied myself as early as any one, except colonel Bridges, yet it pleased the right honourable governor to take out of my hand the collector's place of York river, the only little support left for myself and family, which I held by sir Wm. Berkley's commission, the cause whereof I do not yet know.

UPON consideration, that, by the act of the grand assembly all persons were left liable to be sued for trespasses, committed in the time of rebellion, I commenced my actions against some of the principal of those that plundered me, but was hindered in the prosecution by a protection granted to George

Walklate, contrary to the express words of the laws of this country and many statutes of England.

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MOREOVER, when, in order to making my proof, I desired a *dedimus protestatem* for the examination of witnesses, it was denied me by which means, though I had judgment granted me the last assembly for a small part of what I lost, yet I could not have judgment for my papers and books, taken with my goods, to the value of near 40,000 lbs. of tobacco, for want of evidence; a great part of which tobacco I must pay to other people or go to jail, as being security for an under sheriff, who died in the time of his collection, which place I was forced, for the remainder of his time, to manage the best I could for my security, and had, with much care and pains, preserved the bills and accounts, by which I should have received the tobacco to pay those debts for which judgment doth daily pass against me in the court, which makes the loss double: now I do humbly beseech your honours to believe me thus far, that it is a great trouble upon my spirits, beyond all my losses, that I stand here before your honours as a contemner of that authority to maintain which I have severely suffered; and I do further desire your belief, that I take no pleasure in recounting these misfortunes, but could heartily have wished none of them had happened; and do further humbly desire, that if there shall be any thing found in those depositions, by which it shall appear to your honours I have done any thing derogatory to the honour of his majesty's governor or government here, you will be pleased to consider the great exasperations I had, which possibly might raise me, by their continued course, to that height of passion as to speak those things, which, in a better consideration, a calmer temper, I should not have done, and which I shall most readily and humbly acknowledge, when it appears. I hope, gentlemen, if the strictest enquiry be made into my past life and consideration in this country, I shall be found no other than a true and faithful subject to his majesty, especially in these times of our troubles, without any other design, God Almighty is my witness, that I know of, than discharging my duty and allegiance as I ought.

As to what the right honourable the governor is pleased to charge me with, concerning a letter casually lost and discovered to him, I think it hard that that letter should now be brought as an aggravation against me in this cause, having laid still so long, and nothing said about it; neither doth it even appear it hath been mentioned in England. I do not well remember it, but since it is so reflected on, I humbly desire, a copy of that letter may be laid before your honours,

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and am most confident there will not be found a word in it of his majesty's commissioners spoken but with respect ; and shall further beg your honours will be pleased to give your opinions of it in general, being writ only to a private gentleman. And now, most honourable gentlemen, being well assured of your justice and integrity, I shall, in all humility, lay my condition before you, for your own considerations, and desire that you will please to weigh well the import of those depositions against me ; but I fear I hold your honours too long, and shall therefore humbly rest in hope, that there will be nothing found whereby it may be thought that I have injured any of a malice intent. But if it shall appear, that any follies have casually been committed, in time past, I hope this may be amended for the future by

Your honours' most humble

and most obedient respondent,

PHILIP LUDWELL.

March 28th, 1678.

Recorded,

Per Henry Hartwell, clerk council. }
}

CHAPTER VI.

Lord Howard is appointed governor.—Expectations raised by his arrival.—He disappoints them by his arbitrary proceedings —Persecution of Beverley continued.—Produces his conviction, in order to make a merit of pardoning him.—Beverley makes concessions to governor and council—but still retains the journals.—Lord Howard makes peace with the Six Nations, at Albany.—Death of Charles II.—His character.—Virginia commissioners, attended by Virginia sachems, repair to Albany —An assembly.—Its spirited proceedings—right of king to revive laws repealed examined —Governor suddenly appears, and pro-rogues assembly.—Succession of James II.—His resentment at the proceedings of the assembly.—Directs that Beverley should be prosecuted.—Several persons indicted for seditious and treasonable expressions.—Death of Beverley—reflections on it.—Servility of the council.—King's project of establishing popery in the colony.—Negroe plot in Northern Neck.—Governor's innovations in the mode of administering justice.—Message from colonel Dungan.—Writs issued for summoning an assembly.—Frank Page appointed Clerk of assembly —Reflections on this appointment.—Determined opposition of assembly—is dissolved at the special request of council —¹Partial insurrections.—Moderation of council —Rumors of revolution in England.—Joy of the people.—Or-

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der from duke of Shrewsbury to put the colony in best state of defence.—Remonstrance against Howard heard before privy council—*Their decision*.—Sir F. Nicholson appointed lieutenant governor.—State of Colony at his arrival.—Commissary Blair —First measures of Nicholson.—Plan of a college.—Governor's tour through the counties.—His organization of militia.—An assembly —Its cordial co-operation with the governor in his plans of improvement—present him three hundred pounds, as a token of their respect and attachment.—Liberal endowment of university of William and Mary —Royal bounty. - Sir Edmond Andros arrives. Sir F. Nicholson takes his seat in council—removed to Maryland as governor.—His hostility to Virginia and her sister colonies.—His project for their union and concert.—His motives for this project.—France sensible of the value and importance of the North American provinces.—Her project for cutting them in two, by capture of New-York --Plan of Callier.—Expedition of Frontigniac defeated by ravages of the Six Nations... Plan of general defence proposed by the English governors -rejected by Virginia... Motives of her refusal... Resentment of Nicholson.... Memorial of colonel Quarry. - Extraordinary nature of this memorial.... Reflections on this memorial.

CHAPTER VI.

LORD CULPEPPER having forfeited his commission, by refusing to return to his government, lord Howard. of Effingham, was appointed his successor; and, on the 28th of February, he was sworn into office before the council in Virginia. On the same day he issued several proclamations. One of them recited for the information of the colonists, as had been usual on such occasions, the date and other most material circumstances of his commission. The second continued all those officers, who had received their appointments from former governors. A more important measure was the calling an assembly, to meet on the 16th of the following April.

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Febr'y. 21.
Lord How-
ard gover-
nor.

THE executive, of late years, by their arbitrary measures, and by their sudden prorogations and violent dissolutions of assemblies, had attracted a considerable degree of attention and interest to the proceedings of this body. It was considered as the legitimate and natural support of the rights and privileges of the people; and they could not help considering the violence, that had been used towards it on several occasions, as palpable and wicked invasions of the just rights and liberties, which they had inherited from their ancestors. These sentiments the representatives, on their return home, would naturally encourage; so that each dissolution, although it immediately freed the government from the censures and remonstrances

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Disappoints them by his arbitrary proceedings

of that body, swelled the tide of discontent, and attached an importance and interest to their proceedings, which, during a more tranquil period, they had not been able to acquire.

WHATEVER fond illusions might have been raised by the arrival of a new governor, they were speedily dissipated. The arbitrary principles of Culpepper were pursued without any variation. Those of the plant cutters, who had been excepted in the proclamation of a general pardon, were executed, and their estates applied, without the advice of the assembly, partly to the payment of the attorney-general, the clerk of the general court, jurors, sheriffs, and witnesses. The remainder was left unappropriated, and became, according to an old order of the privy council, by the example of sir William Berkeley *in a loose property*, to use the language of the order, the property of the governor.* Richard Bayley, the last of these unfortunate men, was ordered for execution a short time after the meeting of the assembly. In no instance was the prerogative of mercy interposed for a reprieve or suspension of their punishment.

THE case of Beverley remained yet undecided. The prosecution of this singular man was attended with considerable perplexity and embarrassment. If any opinion had been delivered by the privy council on his case, the proceedings in which, as it has been seen, had been forwarded for their advice, it does not appear to have been so absolute and decided as to warrant his execution. It was known, that in the refusal of the assembly's journals, he had acted entirely with the approbation and advice of that body; and the other charges were either so frivolous, or so weakly supported by evidence,

* Ancient records.

that there was little hope left, unless by executive management, of procuring his condemnation. Even though this difficulty could be gotten over, it was not deemed prudent, in the present temper of the people, to shock their fears and jealousy by his execution.

THE nature of his offence was not exactly defined. The indictment stated generally that he had been guilty of high misdemeanors, and no precedent, that could be collected, enabled them to affix a legal punishment to his transgression. The assembly was in session, and well knew that he suffered for his attachment to their privileges. They wanted his services as clerk, and they would not supply his place by a new appointment.

IN this dilemma, it was determined to attempt procuring if possible his conviction, in order afterwards to make a merit of their clemency in remitting his punishment; and even in those innocent times, there was sufficient patronage or influence in the executive to effect an object so illegal and wicked: Beverley was found guilty on the vague charges, which had been brought forward against him, and a pardon was immediately offered him, on the sole condition of his begging pardon of the council, without any mention whatever being made of the delivery of the journals, which was well understood to have been the main ground of the prosecution.*

IT was thought prudent, by the friends of Beverley, that his safety and usefulness should not be sacrificed to a vain punctilio; and as his enemies tacitly consented to waive their right to an inspection of the journals of assembly, it was justly considered as a partial victory by the friends of li-

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Persecution
of Beverley.

Procures
his convic-
tion, in or-
der to make
a merit of
pardoning
him.

* Ancient records.

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berty. The humiliation, if indeed it could be so called, would be confined to himself; while the consequence of his noble resistance would remain to his country and posterity. It was represented, that this was not the time for a serious contest about executive privileges. The late unfortunate rebellion had too much strengthened the hands of the executive; and time was required to revive the public confidence, and chase away that despondence so fatal to patriotism and public spirit.

Beverley
makes con-
cessions to
governor &
council, but
retains the
journals.

THESE representations had, at length, the desired effect; and Beverley, having appeased the vain pride of the executive, by the concessions, which had been demanded, and given security for his good behaviour, resumed his station as clerk of the assembly: a station he had filled with so much honor to himself and benefit to his country.*

BEVERLEY, the historian, has preserved all the acts of this assembly, which have survived the neglect and obscurity of the public records, and these are too scanty to answer even the purpose of mere annals.

THIS æra, so interesting, as being the dawn of a more just and enlarged mode of thinking on the subject of government, is unhappily fated to darkness and obscurity. Enough remains in the king's instructions and the orders of the Virginia council to prove, that the assemblies evinced the most determined opposition to the arbitrary measures of the court, and their frequent and violent dissolutions sufficiently confirm this fact: but the causes, which contributed to this secret revolution in public opinion; the speeches of particular members, even the greater number of the acts, all these things, so essential to a lively, interesting, and

* Ancient records.

dramatic view of the times are wanting; and our apprehensions lest the cradle of Virginia liberty should be hurried away by the dwarf fiends, which surround it, are only appeased by a knowledge of the subsequent events.

ACCORDING to this historian, the duty on liquors imported from the other English plantations, was imposed during this session. It was laid, as he alledges, under pretence of lessening the levy by poll; but more especially for rebuilding the state house, which had been burnt during the rebellion. The duty was at first laid on wine and rum only, at the rate of three pence per gallon, with the exemption of such as should be imported in the ships of Virginia owners. The guard at the king's stores at Middle Plantation, was disbanded, and rangers were appointed to defend the frontiers against the incursions of the Indians, particularly of the Five Nations, who, in defiance of the late treaty, continued their destructive ravages. We are not told what was the fate of this assembly.

MEANWHILE, the warriors of the Five Nations at the instigation, it is supposed, of the French in Canada, continued their destructive ravages on the frontiers, and their reputation for courage and ferocity, added to their enormities, excited just alarms throughout the colony. The Indians, in friendship with Virginia, equally with the whites were sufferers by these incursions, and were carried off by their conquerors, with their usual policy, to augment their strength.

THE expence of supporting a body of troops, adequate to the defence of a frontier so exposed and extended, against enemies so sagacious and intrepid, would, indeed, be enormous; and it was thought more expedient to open a negotiation un-

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der the influence of the governor of New-York; with the sachems of this savage republic. The object appeared at this time of so much importance, that the personal influence of the governor was thought essential on this occasion; and there appearing nothing, which demanded his immediate attention in the colony, he departed* in company with two members of the council, leaving the government in the hands of colonel Bacon, and, on the 13th July he spoke with the deputies of these tribes at Albany,† in the presence of colonel

* Ancient records.

† Proposals made by the right honorable Francis lord Howard of Effingham, governor-general of his majesty's dominion of Virginia, to the Mohawks, Oneydoes, Onondagas, and Cayugas.

It is now about seven years, said he, since you (unprovoked) came into Virginia, a country belonging to the great king of England, and committed several murders and robberies, carrying away our christian women and children prisoners into your castles. All which injuries we designed to have revenged on you, but at the desire of sir Edmond Andross, then governor-general of this country, we desisted from destroying you, and sent our agents, colonel William Kendal and colonel Southbey Littleton, to confirm and make sure the peace, that colonel Coursey of Maryland included us in, when he first treated with you. We find, that as you quickly forgot what you promised colonel Coursey, so you have wilfully broke the covenant chain, which you promised our agent, colonel Kendal, should be kept more strong and bright, if we of Virginia would bury, in the pit of oblivion, the injury then done us; which, upon governor Andross's intercession, and your submission, we were willing to forget: but you not at all minding the covenant then made, have every year since come into our country in a warlike manner, under pretence offighting with our Indians, our friends and neighbours, which you ought not to have done, our agent having included them likewise in the peace. You not only destroyed and took several of them prisoners, but you have also killed and burnt our christian people, destroying corn and tobacco more than you made use of; killed our horses, hogs, and cattle, not to eat, but to let them lie in the woods and stink: this you did when you were not denied any thing you said you wanted.

Dungan, governor of New-York, and the magistrates of Albany. Eight Mohawk, three Onedydoes,

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I must also tell you, that under the pretence of friendship, you have come to houses at the heads of our rivers (when they have been fortified) with a white sheet on a pole, and have laid down your guns before the fort; upon which our people taking you for friends, have admitted your great men into their forts, and have given them meat and drink, what they desired. After the great men had refreshed themselves, and desiring to return, as they were let out of the fort-gates, the young men commonly rushed into the fort, and plundered the houses, taking away and destroying all the corn, tobacco, and bedding, and what else was in the houses. When they went away, they generally also took several sheep with them, and killed several cows big with calf, and left them behind them cut to pieces, and flung about, as if it were in defiance of us, and in derision of our friendship. These, and many more injuries that you have done us, have caused me to raise forces, to send to the heads of our rivers, to defend our people from these outrages, till I came to New York, to colonel Thomas Dungan, your governor-general, to desire him, as we are all one king's subjects, to assist me in warring against you, to revenge the christian blood that you have shed, and to make you give full satisfaction for all the goods that you have destroyed: but by the mediation of your governor, I am now come to Albany to speak with you, and to know the reason of your breaking the covenant-chain, not only with us and our neighbour Indians, but with Maryland, who are great king Charles's subjects; for our Indians have given king Charles their land: therefore, I, the governor of Virginia will protect them, as your governor, under the great duke of York and Albany, will henceforth you, when the chain of friendship is made between us ali.

Now I have let you know, that I am sensible of all the injuries you have done us, and by the desire of your governor-general, I am willing to make a new chain with you for Virginia, Maryland, and our Indians, that may be more strong and lasting, even to the world's end; so that we may be brethren, and great king Charles's children.

I propose to you first, That you call out of our countries of Virginia and Maryland, all your young men or soldiers that are now there.

Secondly, That you do not hinder or molest our friendly Indians from hunting in our mountains, it having been their

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three Onondagas, and three Cayuga sachems attended: the Senekas had not yet arrived. To use

country and none of yours; they never go into your country to disurb any of you.

Thirdly, Though the damages you have done our country be very great, and would require a great deal of satisfaction, which you are bound to give, yet we assure you, that only by the persuasions of your governor, who is at a vast deal of trouble and charge for your welfare, which you ever ought to acknowledge, I have passed it by and forgiven you; upon this condition, that your people, nor any living among you, for the future, ever commit any incursions upon our christians or Indians living among us, or in Maryland.

For the better confirmation of the same, and that the peace now concluded may be lasting, I propose to have two hats buried, as a final determination of all wars and jarriings between us; one on behalf of us and our Indians, and the other for all your nations united together, that ever did us any injury, or pretended to war against our Indian friends, or those of Maryland.

And that nothing may be wanting for confirmation thereof (if you desire it) we are willing to send some of our Indian sachems, with an agent, next summer, about this time, that they may ratify the covenant with you here, in this prefixed house, where you may see and speak together as friends.

That the covenant now made between us, in this prefixed house, in the presence of your governor, may be firmly kept and performed on your parts, as it always has been on ours; and that you do not break any one link of the covenant-chain for the future, by your people's coming near our plantations; when you march to the southward, keep to the feet of the mountains, and do not come nigh the heads of our rivers, there being no beaver hunting there; for we shall not for the future, though you lay down your arms as friends, ever trust you more, you have so often deceived us.

The next day the Mohawks answered first by their speaker, saying:

We must, in the first place, say something to the other three nations, by way of reproof for their not keeping the former chain as they ought; and therefore we desire you, great sachem of Virginia, and you Corlaer,* and all here present to give ear, for we will conceal nothing of the evil they

* Governor of New-York.

the figurative language of this people, the chain of friendship was brightened at this meeting, and

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have done [Then turning to the other nations] You have heard yesterday all that has been said, as for our part, we are free of the blame laid on us; we have always been obedient to Corlaer, and have steadily kept our chain with Virginia, Maryland, and Boston; but ye are stupid and brutish, and have no understanding, we must stamp understanding into you Let the new chain made yesterday be carefully preserved for the future. This we earnestly recommend to you, for we are ready to cry for shame of you; let us be no more ashamed on your account, but be obedient, and take this belt, to keep what we say in your memory.

Hear now, now is the time to hearken; the covenant-chain had very near slipt, by your not keeping it firmly. Hold it fast now, when all former evils are buried in the pit.

You, Oneydoes, I speak to you as children; be no longer childish, or void of understanding.

You, Onondagas, our brethren, you are like deaf people, that cannot hear; your senses are covered with dirt and filth.

You, Cayugas, do not return into your former ways. There are three things we must all observe

First, The covenant with Corlaer. Secondly, The covenant with Virginia and Maryland Thirdly, with Boston. We must stamp understanding into you, that you may be obedient; and take this belt for a remembrancer.

Then Cadianne, the same Mohawk speaker, turning to my lord, said:

We are very thankful to you, great sachem of Virginia, that you are persuaded by Corlaer, our governor, to forgive all former faults. We are very glad to hear you, and see your heart softened. Take these three beavers as a token.

We thank thee, great sachem of Virginia, for saying, that the axe shall be thrown into the pit. Take these two beavers as a token of our joy and thankfulness.

We are glad that Assarigoa* will bury in the pit what is past. Let the earth be trod hard over it; or rather, let a strong stream run under the pit, to wash the evil away out of our sight and remembrance, and that it may never be digged up again.

* The name the Five Nations always give the governor of Virginia.

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the hatchet was buried by both parties with all the solemnities usual on the ratification of treaties.

Assarigoa, you are a man of knowledge and understanding, thus to keep the covenant chain bright as silver; and now again to renew it, and make it stronger. (Then pointing to the three other nations, said,) But they are chain-breakers. I lay down this as a token, that we Mohawks have preserved the chain entire on our parts. Gives two beavers and a racoon.

The covenant must be kept; for the fire of love of Virginia and Maryland burns in this place, as well as ours, and this house of peace must be kept clean. Gives two beavers.

We now plant a tree, whose top will reach the sun, and its branches spread far abroad, so that it shall be seen afar off; and we shall shelter ourselves under it, and live in peace without molestation. Here he gave two beavers.

You proposed yesterday, that if we were desirous to see the Indians of Virginia, you are willing to send some of their sachems next summer, about this time to this place. This proposal pleases me very much, the sooner they come the better, that we may speak with them in this house, which is appointed for our speaking with our friends; and give two belts to confirm it.

You have now heard what exhortation we have made to the other three nations; we have taken the hatchet out of their hands; we now therefore pray, that both your hatchets may likewise be buried in a deep pit. Giving two beavers.

Assarigoa, some of us Mohawks are out against our enemies, that lie afar off, they will do you no harm, nor plunder, as the others do. Be kind to them, if they shall happen to come to any of your plantations; give them some tobacco and some victuals; for they will neither rob nor steal, as the Oneydoes, Onondagas, and Cayugas have done.

The Oneydoes particularly thank you, great sachem of Virginia, for consenting to lay down the axe. The hatchet is taken out of all their hands. Gives a belt.

We again thank Assarigoa that he has made a new chain. Let it be kept bright and clean, and held fast on all sides; let not any one pull his arm from it. We include all the four nations in giving this belt.

We again pray Assarigoa to take the Oneydoes into his favor, and keep the chain strong with them; for they are our children. Gives a belt.

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LORD Howard on his return ordered the militia to be prepared to march against the Indians at the head of the bay, who, during his absence, had made a violent inroad on the frontier settlements.*

The Oneydoes give twenty beavers as a satisfaction for what they promised the lord Baltimore, and desire that they may be discharged of that debt.

The two governors told them, they would use their endeavors with the lord Baltimore, to persuade him to forgive what remained.

Then the Indians desired that the hole might be dug to bury the axes, viz. one in behalf of Virginia and their Indians, another in behalf of Maryland and theirs, and three for the Onondagas, Oneydoes, and Cayugas. The Mohawks said, there was no need of burying on their account, for the first chain had never been broke by them.

Then the three nations spoke by an Onondago, called Thanojanihta, who said :

We thank the great sachem of Virginia, that he has so readily forgiven and forgot the injuries that have been done; and we, for our parts, gladly catch at, and lay hold of the new chain. Then each of them delivered an axe to be buried and gave a belt.

I speak in the name of all three nations, and include them in this chain, which we desire may be kept clean and bright like silver. Gives a belt.

We desire, that the path may be open for the Indians under Assarigoa's protection, to come safely and freely to this place, in order to confirm the peace. Gives six fathom of wampum.

Then the axes were buried in the south-east end of the court-yard, and the Indians threw the earth upon them; after which the lord Howard told them, since now a firm peace is concluded, we shall hereafter remain friends, and Virginia and Maryland will send once in two or three years to renew it, and some of our sachems shall come, according to your desire, to confirm it.

Last of all the Oneydoes, the Onondagas, and Cayugas, jointly sang the peace song, with demonstrations of much joy; and thanked the governor of New-York for his effectual mediation with the governor of Virginia in their favour.

Colden's Five Nation's, vol. i. pp. 45—53.

* Ancient records.

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1684.

Death of

Charles II.

THIS year died Charles II; whose government, at home and abroad, presented one unvaried image of weakness, tyranny, and insincerity; a neglect of, or rather a deliberate departure from those decent principles and duties, which form the strongest cement to social life, and constitute its best ornament and prosperity.

TAUGHT prudence by the fate of his father, he forebore exercising suddenly any violent stretch of prerogative, which would only shock the prejudices and alarm the jealousy of the nation. A more refined and cautious policy was introduced; and *influence*, a mysterious power, hitherto unknown in the constitution, was called in as an auxiliary, more to be depended on than prerogative so justly suspected; and battered by the assaults of the long parliament. By a long course of gradual encroachment, he, in a great measure, frittered away or weakened those inestimable privileges, so lately wrested from monarchy; and with a constitution tolerably free from defect in theory, England, at the period of his decease, exhibited a picture not materially different from the absolute monarchies of the continent.

AN hypocrite in matters of religion; his private life was openly profligate and dissolute: by his example virtue was openly laughed out of countenance, and chastity and integrity were considered as vulgar and rustic qualities, admirably calculated indeed for the poor and base born, but utterly and eminently beneath the consideration of the great and exalted. The manners and literature of the nation could scarcely hope to escape the joint operation of a power so resistless, and an example so contagious. Literature was rapidly exchanging her noble and majestic simplicity; the solid precept, the terse and unforced reflection, the natural sally; for the quaint conceit, the pert, dis-

solute witticism, the strained artificial polish, and for low buffoonery. Language indeed, added to its richness and compass during this period ; but this has been justly thought as affording no equivalent for the natural sentiments and the rude and vigorous beauties of former times.

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In no part of the empire was the baneful tendency of his measures and principles felt more sensibly than in the North American colonies. Far removed from the seat of power ; wanting a concert among themselves, and deriving little support from royal charters ; they presented, in their growing and prosperous fortunes, their simple manners, and sturdy patriotism, objects too inviting to the avarice and jealousy of the king. This imperfect portrait is drawn principally with the view of directing the attention of the reader to a circumstance but little attended to, viz. that the low ebb to which freedom was reduced in all the English colonies, not even excepting Massachusetts, during this reign, and for a considerable time after, must be ascribed to the perfidious policy and arbitrary principles of this man ; and it will afford some slight consolation to the antiquary and the patriot, that England, with all her boasted intelligence and patriotism, was in no better condition during this period. His successor, wanting his capacity, and infuriated by bigotry, prevented the complete consummation of his project by his violence and presumption.

The succession of James II was formally announced, and he was proclaimed with the usual demonstrations of respect. An humble address, signed by the governor and council, the sheriffs, justices, and professing to speak the wishes of the freeholders generally, was sent to the new king ; congratulating him on this occasion, and tendering

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Feby. 15,

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1685.

him their lives and fortunes whenever he should have occasion to demand them. His first advances towards Virginia were gracious and obliging, and raised the same hopes by which, notwithstanding his known bigotry and tyranny, the mother country had been deluded. He continued all the officers within the royal gift, and promised a new great seal to the colony, whose device should be emblematic of his glory, and a symbol of his regard for Virginia. In return for these vain professions, which cost nothing, but which, from his former character, being wholly unexpected, were regarded as the most gracious concessions, did the governor and council pledge the blood and the treasures of the colonists.

It does not appear, that this event was regarded in the same light by the body of the people, and it was thought prudent to stretch the power of the governor, in order to repress the growing discontents.* A proclamation was issued by lord How-

ard, strictly forbidding all seditious discourses, and by this measure he had in view the shielding the character of the king from charges of papacy and tyranny, and his own, from well grounded accusations of rapacity and extortion. During the recess, he had undertaken to enlarge the fees and perquisites of his office, and to impose arbitrarily new fees, without the advice or authority of the assembly; and those who refused to comply with his illegal requisitions were thrown into prison, and refused the benefits of the plainest and most incontestible provisions of the laws of England.†

HE had summoned an assembly to meet on the first of October, by writs, bearing date 10th July;

* Ancient records.

† Ancient records.—Beverley.

but the general discontents rendered a meeting of this body at this juncture imprudent, if not dangerous, and on the plea of sickness he prorogued them to the following month.*

MEANWHILE colonel Byrd and Edmond Jennings, attorney-general, who had been sent, attended with a chief from each of the tribes of Pamunky, Chickahomini, and Mataponi, and one from another tribe of the Powhatans,† to ratify the treaty made by lord Howard the preceding year, returned, having fully accomplished the object of his mission. At this treaty it was agreed, that the Virginians and their Indians should henceforth be at peace with the Five Nations and their tributaries; and a Mohawk orator, who wound up the ceremonies, after exculpating his tribe and the Senacas from all share in the late outrages complained of by Virginia, sang all the links of the chain, which he held in his hand, and which was the symbol of the friendship, which was henceforth to bind the contracting parties. After this he sang, by way of admonition to the Onondagas, Oneydoes, and Cayugas,‡ who bore the imputation of having infringed the former treaty, and concluded with a song of peace to the sachems of Virginia.

MEANWHILE, the assembly, which had been prorogued to the 6th November, met at James-City, and proceeded immediately to a spirited enquiry into the state of the colony, and more particularly of those arbitrary measures of the governor, which affected at once the privileges of assemblies and the liberty of the subject. The intrepid Beverley, destined to make new sacrifices to the

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Nov. 2.

Commissi-
oners with
Virginia sa-
chems re-
pair to Alba-
ny.

September.

* Ancient records. † *Ibidem.*—Jefferson's Notes.

‡ Colden's Five Nations.

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liberty of his country, and to encounter new persecutions, was still their clerk ; and by his courage, zeal, experience and fidelity, he contributed to animate and confirm the present opposition. Never since the foundations of the government, not even at the seizure of Hervey, did the assembly display a more daring and determined resistance.

FROM severe strictures on the conduct of the governor in disbursing the amount of the late duties on wines and liquors, without their control, and refusing to submit the estimates to their revision, according to the provisions of the act, they passed rapidly on to the more alarming abuse of his authority : his violent stretch of prerogative ; his illegal exactions of fees ; his arbitrary seizure of individuals, and their rigorous imprisonment, in spite of their demands to be brought to trial ; his repeated refusal of the writ of habeas corpus, which was the right of all subjects of England, and which their ancestors had purchased at an infinite expence of their best blood.

Its spirited proceedings. RESOLUTIONS, in the spirit of these charges, were carried with little opposition ; and, in order to secure in future the personal liberty of the people, as well as the privileges of their own body, from similar invasion, several acts were passed, calculated to render more clear and certain those wholesome and important provisions, which had been so grossly violated.

IT is scarcely necessary to add, that these acts were negative by the governor. He did not even condescend to explain the reasons for his rejection ; and the assembly, already sufficiently irritated against him, abandoned all reserve on this occasion.

LORD Howard, in obedience, as he alledged, to the king's instructions, had issued a proclamation repealing several acts of assembly, which were

themselves repeals of former acts, and declaring the acts repealed by that body to be revived, and henceforth to remain in full force as they were before the passing these acts.*

THIS proclamation the assembly pronounced illegal and unwarrantable, and as holding out a doctrine, which was utterly subversive of those established usages and principles on which the government had ever been administered. They contended, that if governors could at pleasure revive laws, which had been solemnly repealed by the assembly, the weight of the popular branch was utterly annihilated in the government; that the repeal as well as the enactment of laws were plainly of the same nature, and should be exercised by the same body, and that no rational distinction could be even imagined between them; that if the king, by his prerogative, had authority to repeal laws solemnly passed by the legislature, no one could doubt of his right to enact them; and that all those checks and balances, devised with so much care, for the security of liberty and property, were so many idle distinctions, which might sound well to the ear, but were utterly impotent when opposed by prerogative. †

THIS was, perhaps, the nicest distinction that had been taken during the existence of the colonial government. It might have been answered, that the king had a double negative upon all laws, one by his deputy, the other by himself in council; that though the assembly's repeal of the acts in question had received the assent of the governor, and were to all intents and purposes laws un-

CHAP.
VI.

1685.

Right of
king to re-
vive laws
repealed ex-
amined.

* Ancient records.

† Ancient records. MS. penes me.

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1686.

til the king's pleasure was declared, they wanted yet a farther property to render their validity absolute and certain....the royal assent; that until this final ratification, the laws repealed by the assembly, although their operation was suspended, revived of course from the moment the king had refused his assent to their repeal.

WE are not told whether the governor used any arguments in support of his prerogative. Should we judge by analogy, drawn from his own character, or the general conduct of the governors of Virginia, a disdainful silence or obstinate negative were the only arguments, which he would condescend to use on this occasion. But although neither his insolence nor his capacity would permit him to reason, his chagrin, his fears were manifested in a way more consistent with his office. He suddenly appeared in the chamber of the house of burgesses, and prorogued their meeting to the 20th of October, 1686.* The burgesses had foreseen this event, and had taken care to preserve on their journals,† for the advancement of liberty, and as an example to future assemblies, the noble ardor and spirit of their opposition.

Dec. 18.
Governor
suddenly ap-
pears and
prorogues
them.

IT is difficult to conceive why he should have prorogued instead of dissolving this body, which was the usual remedy for refractory assemblies. There is only one conjecture which can satisfactorily account for this procedure. The general disaffection left no hope of a better choice of characters by a new election, and he was not without hope, that, by a judicious management he might disarm opposition, and set aside their declared resolution of appealing to the king, and sending an agent to support their accusations against him.

* Ancient records.

† *Ibidem.*

ALTHOUGH he had little to apprehend from any charge of tyranny before a tribunal like that of James, he was not equally indifferent to the means of gratifying his resentment against the colony, and he lost no time in forwarding an account of the proceedings of the assembly, aggravated by every circumstance likely to work on the pride and jealousy of that weak and biggotted tyrant.

This representation produced an order from James,

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1685

Resentment
of James at
the proceed-
ings of as-
sembly.

August 1,
1686.

which, for its singularity, is given in his own words. He states, that "Whereas, he had been informed of the irregular and tumultuous proceedings of the house of burgesses, in the late mutiny of the assembly, the members thereof having not only spent their time in frivolous and unnecessary debates, but likewise presumed to raise disputes touching the negative vote wherewith the governor is entrusted, which he could not attribute to any other cause than their disaffected and unquiet dispositions, and their sinister intentions to protract the time of their sitting, to the great oppression of his subjects, from whom they receive wages: as a mark of his displeasure, he commands the governor to dissolve the present assembly, to the end the inhabitants of that colony may, at such time as he should think fit, have opportunity of electing such other members as may have a more careful regard to our service and the good of the colony. And whereas, Robert Beverley, clerk of the house of burgesses, appears to have chiefly occasioned and promoted those disputes and contests, his majesty's will and pleasure is, that he be declared incapable of any office or public employment within that colony, and that he be prosecuted according to the utmost severity of the law, for altering the records of the assembly, if he, the governor, should see cause. And his majesty charges and requires the governor, or

Directs that
Beverley
should be
prosecuted.

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1685.

commander in chief for the time being, upon the convening assemblies, to find a fit person to execute the office of clerk of the house of burgesses, and not to permit any other person whatever to execute that office, and requiring the assembly to make him the usual allowance."

SUCH were the extraordinary means thought necessary by a king of England, with advice of his council, to keep under the noble ardour of freedom in Virginia, at the moment when Massachusetts and the New-England colonies, deprived of their charters, and dispossessed of the valuable inheritance of their ancestors, were consigned to the condition of slaves under a royal commission, vested with powers merely executive. It should be considered too, that the charters of the New-England states were the freest upon earth; whilst that of Virginia, under wh^{ch} she made this glorious stand, was little more than a mere executive commission, without any mention whatever of a legislature, and that too so immediately after the rebellion of Bacon, when she had to struggle against those high-handed measures, which invariably mark the conduct of the victorious party towards their opponents.

INDEED nothing appears more wonderful than the unanimity, which prevailed at this time in Virginia, so soon after a civil war, conducted with so much bitterness and animosity. The short lived distinctions of loyalist and rebel, together with all the irritations and injuries to which they had given birth, were forgotten; and both parties, with a moderation and good sense, which can scarcely be too highly appreciated, directed their joint efforts to an assertion of their rights against the alarming encroachments of the British government.

Or this fact there remains sufficient evidence in the conduct of Beverley and Ludwell. These men were the most violent advocates for the privileges of the executive, during the rebellion. They were now the most ardent supporters of the privileges of assemblies and the rights of the people.

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MEANWHILE, the Virginians, justly alarmed at the arbitrary measures of the governor, and concluding, from the known principles of the king, and his late instruction respecting the freedom of assemblies, that there was a fixed design against their religious and civil liberties, no longer pretended to conceal their disgust and uneasiness. Amongst a people, who always valued themselves for their courage and their devotion to liberty, those feelings would naturally manifest themselves in strong expressions of indignation; and as the ruling power was little disposed to admit any strictures on its proceedings, measures were taken exactly similar to those adopted in Britain to repress and punish the malecontents.

EDMUND BOWMAN was ordered to appear before the council, for treasonable words used against the king, and the justices of Accomack were commanded to take his bond, with security, for his appearance. James Collins, for treasonable expressions against the king, was thrown into prison and loaded with irons. The council, too, appear to have adopted the haughtiness and insolence of the governor. James Howard was committed for slighting colonel Lear's authority, and the attorney general was directed to proceed against him. Christopher Berryman, disobeying president Bacon's warrant, was ordered to beg pardon on his knees,

Several persons indicted for seditious and treasonable expressions

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1686.
Death of
Beverley.
Reflections
on this event

THE intrepid Beverley was no more,* having died sometime this year; but the malignity of his enemies and those of the constitution, pursued him beyond life and the grave. Although nothing is mentioned explicitly in the records, of the time and circumstances of his death, there are strong reasons to believe, that his former imprisonment and persecution, added to the new dangers he was compelled to encounter, by the late instructions of the king, had undermined his health and hastened his dissolution: so that he may justly be considered a martyr to the constitution. Could this have been the Robert Beverley, who, during the late rebellion, was so violent a partisan of tyranny? who hunted treason with so much violence and malignity? who was so distinguished for his courage, activity, rapacity, and sanguinary spirit? If so, few changes of character were ever more radical and sincere; and he lived to make full atonement for his former excesses, by his unshaken fidelity in his late trial, and his noble ardor and constancy in opposing the encroachments on the liberties of his country. Virginia has been unjust to this man, in not preserving any authentic circumstances of his birth, manners, education and character; wherewith the historian might raise a monument to his fame; and, by a sort of judgment, her own reputation suffers equally by the neglect of those pious offices, which would have served to illumine one of the darkest pages of her history. I regret that I cannot render him that justice to which his merits so fully entitle him: but his suffering, his principles, and courage, have, I hope, raised for him an interest and respect in

* Ancient records.

the breast of the reader, which, unconnected and unsatisfactory as are the incidents of his life, and feeble the capacity of the historian, will stand him instead of a more exact biography.

THE insolence of the council was equalled only by their mean and servile adulation to the king. They, in one of their addresses, thank him for his gracious indulgence* of liberty of conscience: a principle indeed, just and noble in itself; but which they were well aware was intended merely as a prelude to the establishment of popery. With a meanness still more disgusting, they intreat his majesty to accept the lives and fortunes of his subjects in Virginia, for the inestimable honor of a glorious seal.† In such lofty terms do they speak of a bauble bestowed in the childish prurience of royal vanity.

THE king was evidently preparing the way in Virginia for the complete establishment of his favorite maxims in religion and politics; and the tractable spirit of the council pointed them out as the fittest instruments on this occasion. They were all, 'tis true, of the church of England, and would doubtless be shocked by an undisguised avowal of such a project; but they were the mere creatures of royalty, and could scarcely be supposed hardy enough to oppose a power, which had triumphed over the liberties of England.

PHILIP LUDWELL, who had lately embarked with the country party against the measures of the court, was, about this time displaced by the king, and Isaac Allerton, a papist, was appointed in his room ‡ The proclamation in favor of liberty of conscience had some time before been published; and, by a sort of royal casuistry, Allerton's

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1686.

April 4,
1687
Servility of
council.

King's pro-
ject of esta-
blishing po-
perty in the
colony.

* Ancient records.

† *Ibidem.*

‡ *Ibidem.*

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VI.

1687.

Negro plot
in Northern
Neck.

religious scruples were not offended by the tender of the oaths of office, which were dispensed with in his favor. John Cus'is, another member of that body, was for some other pretext, displaced; and John Armstead, another papist, was appointed *

A PLAN of insurrection of the blacks was at this time discovered in the Northern Neck, just in time to prevent its explosion. The governor on this occasion commanded, that the laws against the meeting of negroes should be strictly enforced. There are no data by which we might estimate, with any accuracy, the population of this race in Virginia. But as there was a stock so early as 1620, and a continual trade was driven by the planters with the Royal African Company, for cargoes of likely young negroes of both sexes, we should conclude the number was considerable. The laws enacted, by betraying the fears of the colonists, are conclusive evidence of this fact. When we consider the proportion between the numbers of the whites and blacks at this day, when Virginia has been long debarred the liberty of importing, under severe penalties, perhaps we shall find reason to believe their numbers fell little short of one half.

Governor's
innovation
in the mode
of adminis-
tering jus-
tice.

THE governor, now secure in the co-operation of the council, and free from the immediate censorship of the assemblies, began to make more important innovations, not only in executive duties, but also in the administration of justice. All probates and administrations on wills were directed to be drawn verbatim in the same form, and they were declared to be invalid unless impressed with the seal by the governor. A regulation, which affected so nearly the titles of estates, excited a

* Ancient records.

strong sensation through the colony. For the use of this seal the enormous fee of two hundred pounds of tobacco and cask was exacted by the governor.

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A MORE extraordinary, although a less mischievous regulation, was the establishment of a new court of chancery. The plan of this judiciary, with some of the reasons for its institution, are found in the journals of council. It is stated, "that for the reducing of cases depending in chancery, to a more methodical manner than at present, he had thought for the future to assign, order, and appoint the seventh and tenth days of each general court to sit, hear and determine causes depending in chancery; and that his excellency, and so many of the council to his assistance as the weight of matters depending might require, had ordered, that all chancery bills might be filed four days before, and answers two days, that there might be no room for unnecessary delays of business." Beverley, speaking of this innovation, says, that he erected himself into a lord chancellor, taking the gentlemen of the council to sit with him as mere associates and advisers, not having any vote in the causes before them. And that it might have more the air of a new court, he would not so much as sit in the state-house, where all the other public business was dispatched, but took the dining room of a large house for that use. But this sopperty might be forgiven, but for the spirit of avarice and extortion in which it appears to have been founded. The same author says, that he likewise made arbitrary tables of fees, peculiar to his high court.

DURING this year a message was received from colonel Thomas Dungan, governor of New York, signifying king James's instructions to him to build forts for the defence of that state; and his desire, that Virginia should contribute towards

Nov. 10.
Message
from colo-
nel Dungan

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an object, which it was pretended, was equally for the protection and security of all the English plantations. The message of Dungan farther stated that from the recent establishment of Pennsylvania, and East and West Jersey, little was to be expected from their contingent. That Maryland, Massachusetts, and Connecticut had agreed to furnish six hundred men, and that they expended the last year ten thousand pounds * This may be regarded as the first attempt to establish a concert amongst the English colonies in America.

BUT this project† of James had its rise not in any enlarged views of patriotism or policy. He wished merely to strengthen New-York, of which he was at once sovereign and proprietor, at the expence of the other colonies; and he entertained little doubt that his influence, as king of England, would direct their joint efforts to this favorite object. But Virginia was not in a disposition to make any new sacrifices to complaisance; and without permitting themselves to be affected by the message of Dungan, the king's instructions, or the pretended importance or urgency of the occasion, they obstinately refused to contribute a shilling for this purpose.‡

Writs issued
for calling an assembly.

1688.
April 24.

LORD Howard issued writs summoning an assembly, to meet on the 19th of April, 1688, and commanded the sheriffs to elect two burgesses in every county. This assembly, prorogued by reason of his lordship's indisposition, convened on the 24th.|| But before they could proceed to bu-

* Ancient records. MS. penes me.

† The province of New-York was the property of James whilst he was duke of York.

‡ Ancient records.—Beverley. || Ancient records.

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1688.

siness a clerk was to be appointed in the place of Beverley; and as the king's instruction relative to the mode of appointing this officer, was in direct opposition at once to ancient usage, and the feelings of the legislature, there would naturally arise considerable difficulty in adjusting this preliminary.

IT would be expected, that the principal question, which for several years had divided the different branches of government, now that it was fairly at issue, would draw out all the zeal and talents of the parties. The records preserve only a brief and unsatisfactory account of this event. On the second day of the session Francis Page was appointed clerk.* This is all we know of a transaction, whose discussion for several years was attended with such violent agitation, and which was justly supposed to involve some of the most valuable privileges of the legislature.

THERE remain some circumstances, which throw a faint gleam on the darkness of this event. Page, if he was indeed appointed by the council, which is probable; and if he was suffered to officiate by the house of burgesses, which is wholly uncertain; did not hold his place longer than this session:† when Peter Beverley, the relative, possibly the son, of their late intrepid defender, was regularly appointed to this office. And as the election of Beverley took place at a time when the most complete and cordial unanimity subsisted between the executive and the representatives, it is highly probable, that he was either elected by the legislature, or appointed at their special instance.‡

SOME faint rays may be let in on this subject from other points. It is known with certainty,

April 25.
F. Page ap-
pointed
clerk.

* Ancient records.

† *Ibidem*,

‡ *Ibidem*.

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1688.

Determined opposition of assembly.

May 12

Is dissolved at special request of council.

that this assembly, although convened at the express directions of the king, was even more untractable and obstinate than the preceding one; and there remains on record an opinion of the council, by way of advice to the governor, in favor of an immediate dissolution of this body as a punishment for their turbulent and refractory spirit.* It is not improbable, that their opposition was inflamed by the attempt to foist on them a clerk contrary to their wishes. But these conjectures, though certainly plausible, are far wide of that clearness so desirable in history.

IT is highly probable, that the progress of the Prince of Orange was not wholly unknown at this time in Virginia. The resistance of the legislature had certainly become more serious and decided; and there arose a hope, grounded probably on the report of the successful issue of this event, that the oppressions under which the country labored would find speedy and effectual redress: Nothing less than such expectations could have retained the people in any subordination: so irritated were they with the administration of Howard. A more important measure of this assembly was a spirited remonstrance against the oppressions of lord Howard, and the appointment of colonel Philip Ludwell as their agent to present it to the king.†

IN addition to their well-grounded subjects of uneasiness, mysterious hints and dark surmises were thrown out, of some new and dreadful danger. Now, the papists and Indians were in a plot, to cut the throats of the protestants.‡ In some places it was reported, that the plot had taken place, and the people ran to arms, to defend them-

* Ancient records.

† *Ibidem.*‡ *Ibidem.*

selves against those dreadful enemies.* The county of Stafford was enflamed by the bold and enthusiastic harangues of John Waugh, their preacher; and some commotions had taken place, which augured the most alarming consequences.† The upper part of Rappahannock was actually in arms;‡ and, considering the general discontent, these were justly considered as only forerunners of a great and general revolution.

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IN these difficulties the president and council thought proper to act with reserve; and although it became absolutely necessary to take some notice of the riots, which were every day taking place, their proceedings were strictly according to law, and nothing of that insolence or severity, which before marked their demeanor were visible in the operations of government. The oppressive fees and other illegal exactions of Howard, which had so largely contributed to the present discontents, were remitted.||

COLONEL John Scarborough had told lord Howard, "that his majesty, king James, would wear out the church of England. For that, when there was any vacant offices, he supplied them with men of a different persuasion." For this offence, at the information of lord Howard, he was prosecuted; and was now, after a short examination, merely to save appearances, discharged by the council.¶ Three counsellors were dispatched to quell the disturbances in Stafford, and a committee of three of the council was appointed to watch over the public safety, and to act in those emergencies, where a quorum could not be had.|||

* Ancient records. † *Ibidem.* ‡ *Ibidem.* || *Ibidem.*

¶ Ancient records. ||| *Ibidem.*

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1688: Nothing short of this moderation, and their hopes of an immediate redress of all their grievances, could have prevented a civil war.

BUT the main difficulty yet remained, and this was in itself of a nature so delicate, as to require the utmost caution and deliberation. Several months had elapsed since William had been seated on the throne, and he had not as yet been proclaimed in Virginia; a neglect, which, in the present ferment of men's minds, would be supposed to fall little short of a direct support of the late king. A suspicion of this nature had already been instrumental in fomenting the late commotions, and it required the utmost address and discretion to secure them, even for a short time, from the consequences of suspicions, which would be daily accumulating. But the council had pledged their lives and fortunes and those of the colony to James; they had thanked him for his indulgence of liberty of conscience; they had co-operated with Howard in extending the arbitrary principles of his government, and in depressing the authority of the assembly within the colony; they had submitted to an association with papists, and dispensed in their favor with the usual tests prescribed by law; and after these so many public professions and indications of their loyalty and attachment, all at once to veer about, when their change could not by any logic be ascribed to the zeal of principle or the influence of conviction, was indeed attended with no small embarrassment.

Report of revolution in England.

IT was not improbable, too, from the opinions entertained in England of the sacred nature of kingly government, that the present proceedings would be set aside, as informal and unconstitutional; and that, as the present ferment was permitted to cool, the sovereign power would return into its ancient channels. They could not, they

1688.

1689.

May 23.

thought, use too much caution under these circumstances. The event of the former revolution in England, and the restoration of Charles II, confirmed them in their caution; and it was not until they had exhausted every pretext for delay, and they had received repeated commands to this effect from the privy council, that they at length agreed to appoint a day for proclaiming William and Mary.

BUT, whatever uneasiness and embarrassment this procedure might have caused the council, it was received by the people at large with every demonstration of unfeigned joy and exultation; and the public indignation, which threatened every moment some great and violent convulsion, immediately subsided into the calm of content, or the temperate warmth of rational hope.

ABOUT this time the president and council were officially instructed by the duke of Shrewsbury,* to put the colony in the best posture of defence, the nation being on the eve of a war with France. This was the famous war undertaken by a coalition of powers principally protestant, for the protection of their civil and religious liberties against the enormous power and ambition of the Bourbons, directed by the genius of Lewis XIV. It was declared in form a short time after; and as England was considered as the head of the coalition, the efforts of the enemy would probably be directed to the destruction of her distant possessions. Some intimations had even been received of a projected attack on New-York; and it was considered of the utmost importance to direct the joint efforts of the British colonies to the protec-

Presidency
of Bacon.
Feb'y. 15.
Order from
duke of
Shrewsbury
to put the
colony in a
good state
of defence.

* Ancient records.

CHAP. tition of the central state, which was the true point
VI. of communication between the north and south.

1689.

Remon-
strance a-
gainst How-
ard heard
before privy
council.

Their deci-
sion.

The complaint of the legislature, entrusted to Ludwell, at length came to a hearing before the privy council. The petition was divided into two parts: one containing a general charge of mal-administration against Howard; the other, praying, that certain proclamations, in themselves illegal, and which were plain invasions of the rights of the legislature and colony, should be declared void. The subject of the petition was supposed to involve a question of prerogative, and it had ever been the custom, in all doubtful cases, to wrest the sense and meaning to the royal interest. In the present instance, a more liberal, or a more prudent, disposition appears to have actuated the government. On all the points of their complaint the privy council decided in favor of the legislature. But the concessions lost much of their value by a preamble,* which denied the principle

* 1st. At the court at Hampton court, the 9th of September, 1689, the king makes an order in council to this effect.

Upon reading a report of the right honorable lords of the Committee for Trade and Foreign Plantations, that in obedience to his majesty's commands, of the 18th of March, they had considered the petition of Philip Ludwell, with the address of the house of burgesses in Virginia, to the late king James II, touching several matters, which with their opinion are as follows:

Whereas, a proclamation had been issued in Virginia, by the lord Howard, governor in chief, in pursuance of instructions from his late majesty, king Charles II, declaring an act, passed in Virginia, November, 1682, for repealing the sixth act of assembly, made in June, 1680. The house of burgesses conceive the said proclamation unwarrantable and of ill consequence, and therefore pray the same be made void. Their lordships consulted the attorney and solicitor general, who reported their opinion, that the act of 1680, by the king's disallowing the act of repeal, was revived, yet, inasmuch as the said act of assembly is represented as incon-

contended for by Virginia in the question of prerogative; thus appearing to consider their decision more a matter of grace than of right. With the reserve peculiar to courts, no notice was taken of the personal charges against lord

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1689.

venient and prejudicial to that colony, they humbly offer their opinion that the same be repealed.

2dly. Whereas, they complain that a fee of 200 lbs of tobacco and cask, lately received by the lord Howard for the use of the seal, they find that fee, upon complaint thereof, was not disallowed or thought unreasonable by the council of Virginia. Yet, inasmuch as the same had not been established by the said council, as by the lord Howard's commission is requisite; and the same being also represented as burdensome and uneasy to the colony, they offer their opinion, that it be discontinued, as also the fee of 30 lbs. of tobacco demanded by the secretary of that colony for recording surveys of lands. But as to the fee of five pounds sterling, received by every escheator for every office found, whereof complaint is also made, they are of opinion, that the same is legal, and fit to be continued, as being an ancient and customary fee, and paid only by such as receive a considerable benefit thereby.

Lastly, as to the complaint made, that the fines and forfeitures in Virginia are not applied to such purposes, as by the said representation is particularly set forth and desired, they represent that the said fines and forfeitures having, by letters patent being granted, by king Charles II, to the lord Culpepper, and others, were re-purchased by the late king for divers considerable sums of money, actually paid to the said lord Culpepper, and a further pension of six hundred pounds per annum, payable for twenty one years, and now charged upon the establishment of his majesty's army, so that the said fines and forfeitures are become wholly at the disposal of the crown, as they were before the purchase of the property of the said patentees. Yet, upon examination they find, that since the said purchase no part of the said revenue has been employed or disposed of otherwise than for the better of the government of Virginia, to which use they are of opinion it may be applied in such manner as his majesty should direct from time to time, and not otherwise; the same being not in any manner appropriated to any particular use or purpose.—Which report his majesty approved.

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1689.

Howard; and if any enquiry was intended, it would be conducted with the deliberation due to the importance of the charges and the quality of his lordship.

LORD Howard still pleading ill health as his reason for not returning to his government, and the council having delayed to enquire into the charges exhibited against him, there was not ground sufficient, if there existed any disposition, to cancel his commission. But Virginia was without a chief magistrate, and it was prudent, on the eve of a war, whose flames would most probably extend to both hemispheres, that the government should be administered by some person of weight and experience.

Nov. 14.
Sir Francis
Nicholson
appointed
lieut. gover-
nor.

SIR Francis Nicholson was appointed lieutenant governor, and on the 3d of June, in the following year, he took the oaths of office, and entered on the duties of his government. The day after his installation, the commission of *Commissary Blair*, from the bishop of London, was laid before the council. The duties of commissary were somewhat analogous to those of pope's legate. He represented in the colonies the right reverend father of the English church. He made visitations through the dioceses, enquiring into and correcting the discipline of the churches, and acting in all cases with that supreme ecclesiastical authority exercised by his superior himself. I find that a Mr. Temple had formerly exercised those functions within the colony; but it is not expressed, that he was vested with the high commission of the present commissary, and I am not able to discover either the date of his arrival or departure.

State of co-
lony at his
arrival.

ON his arrival he found the whole colony disaffected, and ready to break out at the slightest irritation into open revolt. Nothing had hitherto preserved even the appearance of tranquility but

1689.

the revolution in England, and the hope of redress from a king elected by the nation on principles of liberty. The decision of the council in their favor, on the grounds of complaint entrusted to Ludwell, had served to keep alive their expectations; and the great prudence of the president and council, in dispensing with the arbitrary fees, and cautiously avoiding every ground of irritation, had somewhat appeased the fury of their resentment. But the colony had the justest grounds of indignation against Howard, and they had hoped, that the remonstrance of their legislature would have procured them a release from the government of a man become so odious to them by his insolence and tyranny. Yet this man was permitted to retain his commission; and sir F. Nicholson, although apparently the reverse of his lordship, was but his deputy, and would doubtless become his tool for enforcing his arbitrary principles, and would, on all occasions, speak and act only as his lordship should dictate. Such were the apprehensions of the Virginians at the time of his arrival.

THE administration of Nicholson commenced with a considerable show of activity, and with much real moderation and liberality.* The plan of a post-office was proposed, and the project of a college, broached during the preceeding year, was progressing under his bounty and patronage. It was obvious, notwithstanding, that this object, however interesting to the country, could receive adequate encouragement only from the legislature; and it was proposed, by the projectors, that an assembly should be convened for this purpose. But it seems, that he was under a promise† to lord Howard, to call no assembly, unless compelled to

* Ancient records.

† Beverley's Virginia,

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VI.
1689.

the procedure by the most urgent and palpable necessity. His lordship justly apprehended, that those vigilant censors would employ themselves in collecting new matter of accusation against him; and his conduct, whilst in Virginia, was not of a nature, closely examined in a political or religious light, to acquire him respect or countenance with the whigs, who now formed a majority both in the legislature and cabinet of the nation.

Plan of a college.

BEING thus disappointed in legislative aid, a subscription by permission of the lieutenant governor was opened, headed by his own name and those of the council; and in a short time two thousand five hundred pounds were subscribed; in which sum is included the generous benevolence of several merchants in London.*

Tour thro' the coun-ties.

THE new governor became immediately sensible on his arrival, that the public ferment required to be managed with a cautious and gentle hand, and that a plan of administration directly the opposite of his predecessor, should be instantly adopted. With this view he thought it expedient to make a tour† through the several counties, with the ostensible view of inspecting the arms, and observing the discipline of the militia; but in reality, with a view to ascertain the state of opinion, and if possible to impress them with a favorable opinion of his person and principles.

IN the prosecution of this plan his deportment was happily calculated to soothe and conciliate. He discoursed freely of country improvements; he instituted public exercises, and distributed prizes to all those who excelled in riding, running, shooting, wrestling, and cudgelling.‡ The people,

* Beverley's Virginia. † Beverley.—Ancient records.

‡ Beverley.—Ancient records.

for a long time accustomed to see in their governors only stern and gloomy tyrants, were grateful for these condescensions; and their passions, which every moment threatened the most dreadful convulsion, gradually subsided under the influence of a mild and conciliatory government.

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BUT, in the midst of the politeness and respect, which he every where experienced, all his observations tended to show, that without an assembly, his efforts to restore the public tranquility were partial and inadequate; and he resolved to gratify the public sentiment, in defiance of the express prohibition of his superior.

FOR the first time since the rebellion, the different branches of government convened with the most favorable opinion of each other; deliberated without heat and even without opposition, and parted with mutual and cordial respect. The project of a college was highly approved of, and recommended to the patronage of their majesties; and the commissary Blair was appointed as their agent to present the address on this head.

IN this assembly the governor gave his assent to several acts for encouraging the manufactures of the country; and, as every improvement of this nature tended to make the colony less dependent on the mother country, it was justly considered as proof of a wise and liberal policy, which could not be too highly appreciated. He also passed a law for the establishment of towns, and for the improvement of trade. The law concerning towns, or, as it was called, of cohabitation, had divided the opinions of the colony for near fifty years. It had been often enacted into a law and as often been repealed, owing to the circumstances of the country. The succeeding legislature, by suspending its operation, proved that the public sentiment was not yet

An assem-
bly.

Its cordial
co-operati-
on with the
governor.

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VI.
1691.

made up on this subject. It is suggested, that the main opposition to this project arose from the English merchants, whose consigned trade it was apprehended, would suffer by the erection of ports.*

Assembly
presents
300l. to go-
vernор.

THE assembly evinced their esteem and value for the liberality of the governor by a present of three hundred pounds, accompanied by an address at the close of the session, in which they intreat him to receive it as a testimony of their attachment, and the deep sense they entertain of his virtues and obliging demeanor. But the king's instructions, about this time, having strictly forbidden the several American governors to receive any donatives, an address was sent to their majesties, praying that he might have leave to accept it. This permission was obtained, and he presented one half to the college.†

Liberal en-
dowment of
university.

THE assembly's address, respecting a college, had a reception equally favorable ; and a charter was drawn in exact conformity to the wishes of the agent, mr. Blair. Some more solid tokens of royal bounty were added, towards founding and endowing the university : near two thousand pounds sterling, the balance then due on account of quit-rents; twenty thousand acres of choice land, together with the revenue arising by the penny per pound on tobacco exported from Virginia and Maryland to the other plantations.

So frail is the tenure of patriotism in the royal governors, that Nicholson, lately eulogized and rewarded, before the close of the next session, became an object of distrust. The act of cohabitation to which he had given his assent, not being found grateful to the king, he labored, with all the influence he possessed, both with the legislature

* Beverley.

† *Ibidem.*

and with individuals, to procure its repeal.* A change so violent and sudden was thought to proceed from motives not entirely disinterested. At an early period of their history, the Virginians hoped to be able to bind their governors to their interest by gratitude. They seemed to have forgotten, that the governor was the servant of the crown, and that his policy would be always directed and controlled by the policy of the court. Fatal experience alone could convince them of the vanity of such expectations.

In February, 1692, sir Edmund Andross succeeded as governor in chief, and sir F. Nicholson took his seat in the council.† It immediately became a question, whether the dissolution of the assembly was not necessarily the effect of the arrival of a new governor. We are not told what were the arguments used on this occasion. The assembly was, however, dissolved, and writs were issued for a new election of burgesses.‡

ACCORDING to the usage of former governors several proclamations were issued immediately after his installation. It may not be amiss to recite some of the subjects of these executive manifestoes, which here, as well as in England, were now confined within their proper limits.

IN one, the people are informed, that Peter Heyman was appointed deputy post master, and they are commanded to be aiding and assisting to him in the execution of his office: by another, a solemn fast is enjoined to implore God's blessing on the consultations of the assembly: another enjoins a second fast to avert God's judgment, the

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1691.

1692.
Sept. 20.
Sir Edmund
Andross
governor.

* Beverley.

† Ancient records.

‡ Ancient records.

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1692.

country being sorely afflicted by the measles : a fourth declares, that the said Heyman hath power to set up ferries over every river, creek, or lake within the government, where there was no previous grant.*

THE new governor brought with him the college charter; and the assembly, which sat shortly after his arrival, declared, that the subscriptions to the college were due, and immediately demandable. They gave a duty on skins and furs for its more plentiful endowment; and the foundation of the college was laid.†

THE subscription money did not come in with the same readiness with which it had been underwritten. "However," says Beverley, "there was enough given by their majesties, and gathered from the people, to keep all hands at work and carry on the building, the foundation whereof they then laid ; and the rest, upon suit, had judgment given against them."

SIR Edmund Andross is represented to have been actuated in his administration by a sound judgment and a liberal policy : to have been exact, diligent, and methodical in the management of business : of a conciliating deportment, and of great generosity.‡

* Ancient records. † *Ibidem.*—Beverley.

‡ Sir Edmund Andross was a great encourager of manufactures. In his time fulling mills were set up by act of assembly. He also gave particular marks of his favor towards the propagating of cotton, which since his time has been much neglected. He was likewise a great lover of method, and dispatch in all sorts of business, which made him find fault with the management of the secretary's office. And, indeed, with very good reason; for, from the time of Bacon's rebellion, till then, there never was any office in the world more negligently kept. Several patents of land were entered

SIR Francis Nicholson was removed in November from Maryland to the government of Virginia; and, to give the greater dignity and authority to his government, he bore the commission of chief governor. This man, who could be haughty and affable; prudent or prodigal; a patriot or courtier, according to circumstances, had acted as the deputy of sir Edmund Andross in New-York, under that commission, which abrogated the charters of the New England states; and administered the government of New York without the agency of assemblies. After the seizure of his principal, he had been driven out of his government, for his activity in enforcing measures deem-

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Sir Francis
Nicholson
chief gover-
nor.

His hostili-
ty to Virgi-
nia.

blank upon record; many original patents, records, and deeds of land, with other matters of great consequence, were thrown loose about the office, and suffered to be cirtied, torn and eaten by the moths and other insects. But upon this gentleman's accession to the government, he immediately gave directions to reform all these irregularities; he caused the loose and torn records of value to be transcribed into new books; and ordered conveniences to be built within the office, for preserving the records from being lost and confounded as before. He prescribed methods to keep the papers dry and clean and to reduce them into such order as that any thing might be turned to immediately. But all these conveniences were burnt soon after they were finished, in October, 1698. together with the office itself, and the whole state-house. But his diligence was so great in that affair, that though his stay afterward in the country was very short, yet he caused all the records and papers, which had been saved from the fire, to be sorted again, and registered in order, and indeed in much better order than ever they had been before. In this condition he left 'em, at his quitting the government.

He made several offers to re-build the state house in the same place; and had his government continued but six months longer, 'tis probable he would have effected it after such a manner, as might have been least burthensome to the people, designing the greatest part at his own cost.

Beverley, § 142, pp. 90—91.

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ed by the people destructive of their civil and religious rights; and, as has been seen, was almost immediately appointed the deputy of Howard in Virginia; and from thence, after the arrival of sir Edmund Andross, possibly by some agreement with the proprietor, he was employed to administer the government of Maryland.

His vanity
and ambition.

His observations, during these various employments, all tended to show the necessity of treating the people of all the plantations with courtesy and politeness: but the picture of a brave people, galled by the action of arbitrary government; decent and orderly in their habits; jealous of their privileges, and occasionally transported by indignation against their abuse or violation; neither their merits nor sufferings, nor the unreasonable and wicked aggressions of their governors, could inspire him with a sense of justice or compassion. He remained the base and pliant tool of oppression. But to do away the odium of his expulsion from New-York, he found it prudent to mask his designs, by a shew of frankness and liberality; to refute the charges of tyranny, by the mildness of his rule in Virginia; and thus, by laying up a stock of popularity, pave the way for the full completion of his projects. His character appears to have been formed on the model of a wild ambition and a puerile vanity. The reputation of a profound statesman and a consummate general; of a mind intimately acquainted with the local concerns and dispositions of the colonies; and a genius sufficiently bold and ardent to conceive and execute the most difficult enterprize: nothing less could satisfy the cravings of his inordinate vanity.

THERE is reason to believe, that the project of a general government for all the colonies, devised by James, but rendered abortive by the revolution,

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was revived by him, as the best means of gratifying his ambition, and securing the absolute authority of the parent state. He hoped that, by his exertions to bring about this event, added to his experience in American affairs, he should be made choice of to fill the place of governor general; and to this point, from this moment, all his language and actions appeared to have a decided tendency.

THE circumstances of the colonies at this time presented a fair occasion for the success of his project. On the accession of William, the war, which had been long averted by the diplomatic skill of Louis XIV and his ministers, was immediately pronounced necessary to the security of the religion and liberties of Europe; and the nation and parliament having seconded the bold views of their sovereign, it was entered into with a spirit proportioned to its importance.

FULLY sensible of the great power and sagacity of the foe with whom they had to contend, it has been seen, that accounts were early transmitted to Virginia, to be prepared for her own defence and the protection of the other colonies. The pressure of a war with the most powerful prince, which had appeared in Europe since the fall of the Roman empire, did not permit them to second those directions by a respectable body of troops: a circumstance, which might have been decisive of the fate of the British colonies.

WHATEVER opinion the British nation might have entertained of the value of her colonies, it appears, that the French monarch knew justly how to appreciate their importance. The count de Calliers,* governor of Montreal, during his residence in Canada, after a long experience, derived from

France sens-
ible of the
value of the
English col-
onies.

* Colden's Five Nations.

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Her project
of cutting
them in two
by capture
of N. York.

observations on the spot, had formed the bold project of cutting in two the English colonies by the capture of New-York.

THE advantages that would result from the success of this project were obvious: By destroying all concert, it would leave the colonies to fall separately, an easy prey to an invader; it would immediately establish the safety and tranquility of Canada, by enabling the French to subdue or exterminate the Five Nations, who had lately, by a furious irruption, laid waste the country, even to the gates of Montreal and Quebec.*

DE CALLIERS left Canada immediately after the failure of the expedition from New-England, under the command of sir W. Phipps; and, as the danger of the province was regarded as imminent, and its escape providential, the project of Calliers was immediately adopted.

Plan of Cal- A POWERFUL fleet, having on board troops and lier.---1692. military stores, sailed from Rochfort and arrived at Chebucta early in September.† Here the plan of the campaign began to disclose itself. Count Frontigniac issued orders to Caffinier, the admiral, to sail to New-York, and to continue in the bay until the first of December, when, if no farther orders were received, he was to proceed to Port Royal, where he was directed to land his ammunition, stores, and provision, and return to France. The general himself was immediately to repair to Quebec, from whence he would march, with the whole force of Canada, by the route of Sorel river and lake Champlain.‡

Expedition of Frontigniac. THIS plan, which appears to have been laid with judgment, was defeated by the operation of

* Colden's Five Nations.

† *Ibidem.*

‡ Life of Washington.

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Defeated by
the ravages
of the Five
Nations.

circumstances, which could not have been foreseen. On the arrival of the count at Quebec, he found the whole country in the greatest consternation, on account of the destructive inroads of the Five Nations, who carried fire and desolation even to the gates of Montreal and Quebec, and spread like an inundation over the open country. Employed in measures of self-defence, the magnificent project of Callier was necessarily abandoned for the present; and New York, without any exertions of her own, saved from the most imminent danger. *

BUT the plan of Callier would certainly be revived; and it became necessary to provide efficient means for the future security of the central province. The British government was daily becoming sensible of the great value of her American colonies, and the dangers to which they were exposed from Canada. These fears will appear groundless to those, who will judge by the relative strength of the French and English provinces; those of the former amounting to little more than fifty thousand, while the latter exceeded a million of white inhabitants. Such was the prodigious increase since the year 1606, when a few wretched adventurers landed at James-Town. But the union of civil and military authority in the persons of the French governors, added to the judicious policy of appointing none to this station but officers of approved merit, considerably lessened the disproportion. Their extensive influence over the numerous tribes of Indians, with the exception of the Five Nations, who lie on the back of the colonies, from the north of New-England to the waters

* Colden's Five Nations.

CHAP. of the Mississippi and the Ohio, tended still farther
VI. to equalize the strength of the parties.

1698. **Pian of ge-** URGED by the state of circumstances in the year
general de- 1695, the government of England had set on foot
fence pro- a plan of general defence,* by which the quotas
posed by the of each colony was in the ratio of its population,
English go- and the scale was forwarded to the different go-
vernment. vernors, with directions to recommend it to the
assemblies for adoption.

THIS plan did not take effect, because the col-
onies, which were most exposed, were desirous of
employing their force in a manner more agreeable
to their own judgment and immediate interest ;
and those, which were more remote from the point
of danger, were unwilling to participate in the
expence.†

Rejected by AMONGST the rest, this plan was proposed to
Virginia. the legislature of Virginia by sir Francis Nichol-
son, and every argument, which ingenuity could
devise, urged for its adoption. It was even assert-
ed, that a fort on the western frontier of New-York
was essential to the security of Virginia ; and that
it was therefore incumbent on the legislature to
contribute to its erection and maintenance. But
these arguments, although enforced by the advice
and even commands of king William, could make
no impression on the determined spirit of the
assembly.‡

THE astonishment and mortification of Nichol-
son were great at this decided and unqualified
rejection : but the time was past, when a gover-
nor could act in open defiance of the forms of law
and the constitution. The revolution in England
had thrown a new light on the nature and tenure
of a limited government. The expulsion of a mo-

* Life of Washington.

† Ibidem.

‡ Beverley.

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narch, on account of the breach of his trust and the abuse of his prerogative ; and the election of a stranger, had withdrawn the veil, which had been mysteriously spread over the original contract. Government was now almost universally regarded as a trust, not an inheritance ; and the discussion of principles, justly deemed so important, could scarcely fail to find its way into Virginia, where the people conceived themselves entitled to all the privileges of Englishmen.

DISAPPOINTED in effecting his projects by his own influence, he laid the proceeding before the king, and urged in the strongest terms the refractory spirit of Virginia, and the propriety of obliging her to see her true interests on this occasion.*

THE representation of Nicholson had so much the appearance of good sense and propriety, that king William recommended anew the consideration of the matter to the assembly, grounding it on that part of Nicholson's report, " that New-York was the barrier of Virginia against the Indians and the French of Canada ; and as such, it was but justice she should defend it."†

THE assembly, after a serious and deliberate examination of the arguments insisted on, found no reason strong enough to induce a change in their determination. But their respect for the advice and opinion of a king, whose accession had been so auspicious to the rights and happiness of the colony, required, that they should explain the grounds of their dissent. They therefore humbly remonstrated, " that neither the forts then in being, nor any other that might be built in the province of New-York, could in the least avail to the defence and security of Virginia ; for that either the

Motives for
its refusal.

• Beverley.

† *Ibidem.*

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French, or the northern Indians, might invade that colony, and not come within a hundred miles of any such fort.*

THE anxiety of Nicholson to gain this point is ascribed, by an American historian, to a desire of securing to New-York the sole trade of the neighbouring Indians, in which Virginia formerly had participated. But this motive should by no means be admitted. The objects of Nicholson were far more extensive; and although his talents were certainly inadequate to their successful execution, his plan is by no means defective in boldness or judgment.

Resentment
of Nichol-
son.

THE total failure of a project, on whose immediate success he had rested with perfect assurance, owing to the invincible obstinacy of the house of burgesses, excited in his mind an antipathy to the use of assemblies, and the whole frame of colonial government, which manifested itself in the most vindictive and implacable form. In order to the full gratification of this passion, he represented the late dissent of the legislature from his majesty's advice, as proceeding from a spirit of rebellion, and a propension to republican government; charges, which as they struck in with the fears and jealousies of the mother country, were most likely to render the colony an object of suspicion and distrust.

HIS conduct, a short time after this event, proves clearly, that his plan was more profound than Beverley has been willing to acknowledge. He is stated to have publicly declared, that New York should not want the quota of Virginia, although he should pay it out of his own pocket,

* Beverley.

and immediately after he set out on a visit for that province.*

ON his arrival he declaimed in all companies against the unseasonable parsimony and disobligeing temper of Virginia; and, in order to impress indelibly the opinion of his munificence and public spirit, he gave his own bills of exchange for the sum wanted.

HE calculated, that the report of his bounty would gain him applause at court and amongst the colonies; and it would have the immediate effect of reconciling the state of New-York, whose indignation he had once experienced on account of his mal administration.

THE historian Beverley, however, who lived during these events, gives a very different face to the transaction. He asserts, "that Nicholson took a defeasance from the gentlemen to whom the bills were given, specifying, that till her majesty should be graciously pleased to remit him the money out of the quit-rents of Virginia, those bills should never be made use of. I myself," says this historian, "have heard him boast that he gave this money out of his own pockets, and only depended on the queen's bounty to repay him: though the money is not paid to him to this day."

NEITHER was he contented, added he, to spread abroad this untruth then; but he also foisted it into a memorial of colonel Quarry to the council of trade, in which are these words: "As soon as governor Nicholson found the assembly of Virginia would not see their own interest, nor comply with her majesty's orders, he went immediately to New-York, and out of his great zeal to the queen's service, and the security of her province,

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* Beverley.

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1698.

Memorial
of Quarry.

he gave his own bills for nine hundred pounds, to answer the quota of Virginia, wholly depending on her majesty's favor to reimburse him out of the revenues in that province."

THIS memorial contains some other particulars too curious to be omitted. They furnish additional evidence, if indeed any more be thought necessary, that the character and temper of Virginia have been grossly misrepresented: that instead of a tame and unmanly submission to power, howsoever exercised, she has ever been conspicuous for her tenacity in support of her rights, and her ardent and animated resistance against oppression.

IN this memorial the people of Virginia are represented "to be both numerous and rich, of republican notions and principles, such as ought to be corrected and lowered in time; and that then or never was the time to maintain the queen's prerogative, and put a stop to those wrong pernicious notions, which were improving daily, not only in Virginia, but in all her majesty's other governments. A frown now from her majesty could do more than an army hereafter."

IT is surprising, that these memorials have not excited more attention and curiosity. They are certainly the earliest proofs, that have passed under my observation, of the jealousy and apprehensions of the parent state, arising from the supposed wishes for independence and the power of the colonies. To Virginia these documents are peculiarly interesting. Amongst colonies, all disposed to rebellion, and eager for independence, she is represented to stand foremost and conspicuous; and to the insinuations thrown out against her, of a servile loyalty and tame submission, she can oppose this as an irrefutable confirmation of

a thousand facts, equally strong and convincing, spread over the face of her records.

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To how many other reflections and conjectures will these papers give birth. Perhaps we should not be wrong in dating by these memorials the first faint dawning of independence in the minds of the colonies, and of illegal aggressions in the councils of the mother country. Apprehension and jealousy often beget the very mischiefs they wished to guard against. The loss of confidence on the one side weakens the attachment on the other. Distrust would every day widen the breach, and prepare, at some distant day, for a final separation.

1698.

Extraordi-
nary nature
of this me-
morial.

SEVERAL other memorials, of a nature less important, were forwarded by Nicholson.

In one of these he states, *that the tobacco of the country often bears so low a price that it would not yield clothes to the people*; and yet, presently after in the same memorial, he recommends it to the parliament “*to pass an act, forbidding the people to make their own clothes*. Beverley, commenting on this, calls it a *charitable act, that the planters shall go naked*.

IN another memorial, concerted between him and his creature, colonel Quarry, he proposes, “*that all the English colonies of North America, be reduced under one government, and one vice-roy, and that a standing army be there kept on foot to subdue the queen’s enemies*;” surmising, that they were intending to set up for themselves.

DURING his administration one half of the college was erected, and the school discipline commenced. The seat of government was removed from James Town to Middle Plantation, which, in honor of king William, was called Williams-

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burg,* and a state-house erected opposite the college, to which he gave the name of the capitol.†

BUT, notwithstanding the arbitrary principles of Nicholson, his administration was marked by none of those glaring improprieties that stigmatized the times of Berkeley, of Culpepper, and Howard. The whig principles were recently established, and the daring spirit of the British parliament had transfused itself into the colonial legislatures. The assembly of Virginia granted or rejected agreeably to their ideas of fitness and propriety, without any regard to complaisance or politeness; and the governor had no means to punish their obstinacy, except by secret memorials to the king, which, under pretence of affection for the parent state, conveyed the basest and most malignant slanders against Virginia.

THE interior concerns of the colony were conducted with moderation, and blessed with content and tranquility. The character of the king; and the mode of his election, gave assurance to their civil and religious establishments; and the people gave themselves up to the enjoyment of blessings, which it appeared scarcely possible for fate itself to affect by any new changes or disasters.

* By the act 283 acres were appropriated for a city—220 of which were set apart for buildings, and the lots were half acres.

An act continuing the act directing the building the Capitol and the City of Williamsburg, with additions.

Virginia Laws.—Purdie and Dixon's.

† Four hundred and seventy five feet square were appropriated for this building, and two hundred feet round it were reserved.

Ibidem.

This act was in substance passed in 1698.

NICHOLSON was succeeded in his government by Edward Nott, who, in order to attach greater weight to his authority, was dignified with the commission of chief governor. By some agreement between the parties, a part of the salary was to be paid to George earl of Orkney. This is the first instance of this sort of transaction, which occurs in English history. The order for Nicholson's recal bears date the 12th day of April, but the new governor did not arrive 'till the following August.

THE history of this administration comprises but few occurrences worthy of notice. A general revisal of the laws, so long wanted, and so much desired, was past by the assembly. The other most important acts are thus stated by Beverley.

“§ 152. THIS assembly also passed a new law, for ports and towns, grounding it only upon encouragements, according to her majesty's letter to that purpose ; but it seems this also could not please the Virginia merchants in England, for they complained against it to the crown, and so it was also suspended.

“§ 153. THIS assembly also past the law making slaves a real estate, which made a great alteration in the nature of their estates, and becomes a very good security for orphans, whose parents happened to die intestate.

“§ 154. THIS assembly also voted a house to be built for the governor's residence, and laid duties to raise the money for it. But his excellency lived not to see much effected therein, being taken off by death in August 1706. In the first year of his government, the college was burnt down to the ground.”

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1705.

Edward
Nott, gov'r.

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1705.

THE manners of Nott were mild and conciliatory, and his capacity respectable. The assemblies, disgusted with the conduct of Nicholson, dwelt with pleasure on the virtues of the new governor; and the people, whose gratitude is always in advance, began already to regard him as a model of virtue and excellence. Before these expectations could be disappointed the governor died.

Edmund
Jennings,
president.

THE death of Nott devolved the government on Edmund Jennings, the president, and the council. The general tranquility, added to the order and regularity introduced by the revolutionary principles, rendered the duties of the administration, less arduous. No emergence called for additional taxes; and the ordinary revenues, managed with economy, were sufficient for the purposes of government. The recent revision of the laws had embraced all the cases pointed out by experience: no assembly was therefore convened.

Alexander
Spotswood,
governor.
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A COMMISSION meanwhile had issued, appointing brigadier general Hunter, lieutenant governor, under the earl of Orkney: but he having been taken on his passage, by the French, colonel Alexander Spotswood was appointed his successor.

BRITAIN appears to have adopted about this time the policy of France, in appointing military characters to her colonial governments; and the measures of Spotswood seem to confirm this opinion. He had acted with some reputation in the West Indies, and was somewhat vain of his military skill and capacity.

IMMEDIATELY after his arrival, his attention was directed to the means of extending the western frontier, so as to intercept the communication between Canada and the Mississippi. It was not till a considerable time after, that the

grand project of France, for uniting her distant settlements, had explicitly declared itself: there is reason, notwithstanding, to believe that Spotswood, was not without suspicion of her intentions.

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A PASSAGE over the great ridge of mountains, attempted during the administration of sir Wm. Berkeley, became the first object of attention. This expedition was conducted with considerable parade and solemnity. The legislature, sensible of its importance, and animated by the spirit of the governor, made ample provision for its success. Many of the most considerable men in the colony attended as volunteers; and by their numbers and figure added lustre to the occasion.

AN opinion had long prevailed, that these mountains presented an everlasting barrier to the ambition of the whites. Their great height; their prodigious extent; their rugged and horrid appearance, suggested to the imagination undefined images of terror. The wolf, the bear, the panther, and the Indian, were the tenants of these forlorn and inaccessible precipices.

AN attempt, as it were, to conquer nature itself in the passage of these mountains, would be regarded, as in the highest degree perilous and romantic; and public solicitude would increase in proportion to the dangers and difficulties of the project.

GREAT then was the glory attendant on the governor's success. After several days march, distinguished by no remarkable occurrence, he reached the summit, and beheld, for the first time, the beautiful champaigns, which stretch on every side, to an immeasurable distance. After descending, he explored the transmontane vallies, and returned with a glory in those times little inferior to that of Hanibal.

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THE passage of these mountains suggested to Spotswood materials for new projects. The French were, about this time, becoming an object of apprehension to the English colonies; and their defeat and extinction were generally considered as the only means of assuring their own safety and prosperity. The ardent spirit of Spotswood was fired by the glory of such a contest: and he prepared a memorial for the English government, in which all the positions, from the Alleghany to the lakes, are drawn with a military hand, accompanied with a detailed and labored commentary, designed to inspire a hostile spirit. This memorial contains a number of conjectures, which were afterwards realised; and his opinions were adopted long after, when the facts to which he alludes, of French aggression and ambition, could no longer be doubted.

I SHALL now draw to a close an æra in the history of Virginia, so barren in incidents, that little is left the historian beside a list of governors, and an exact order of their succession; correct dates, with now and then some striking event, which comes alone, and seemed to be without consequences proportionate to its importance. These are materials by far too scanty even for the annalist. The first part of Hume's History of England has been objected to, as far too superficial: but where is the propriety or judgment of dwelling on incidents, either obscure or of little value. An account of hollow and precarious truces; of wars entered into without a motive, and carried on with savage valor and savage ferocity; furnish a scope by far too confined for the purposes of history. In its consequences, indeed, the slightest incident may become interesting and eventful: but insulated, they furnish a detail, disgusting, and beneath the notice of rational curiosity.

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INSTEAD of attempting, then, to swell beyond their just dimensions, petty events, the author should reserve his strength for occasions where it may be properly applied and exerted; and if his genius will permit, he will rise with his subject: but he will be too wise and honest to practice on his readers, by a pompous description of trifles, or by grave reflections introduced out of place, and without application.

THE revolution of 1688, beside the immediate removal of a weak and wicked tyranny, was attended with the more durable effect of improving the spirit of the constitution, and of rendering popular and even fashionable the principle of resistance to arbitrary power. To have denied the truth of this principle, would be a libel at once on the nation and the government: and however offensive to kings and courtiers was the admission of it in all its extent, all descriptions of men bowed to it with real or affected veneration. The prevailing opinions at court are easily seen in the administration of the most distant provinces; and as the government of James was supposed to be equally obnoxious to all parts of the empire, and the legislature of Virginia had repeatedly remonstrated against the arbitrary proceedings of his deputy, she was acknowledged to be entitled with the rest of the empire to the benefits of the reform.

THE whig ministry in England sent whig governors to Virginia; and although they did not always entertain any enlarged notions of liberty, it was nevertheless agreeable to their principles and pride, that their administration should be as much as possible the opposite of Howard and Culpepper: names justly odious to Virginia.

IT was discovered too, that without giving any violent shock to the feelings and opinions of the Virginians, they might be easily retained in obe-

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dience; and that by gentle treatment and skilful policy, they might be even reconciled to all those regulations respecting trade deemed so important by the mother country, and so hard and oppressive by the colonies. It was only necessary to abstain from actual violence, or encroachment on the independence of assemblies ; to permit as far as possible, whatever regarded the internal administration of justice, of government, and police, within the colony, to be conducted according to ancient usage and laws : in a word, that the forms, at least, of free government should be constantly before their eyes. The careless generosity of the people, heightened by gratitude, by the liberal conduct of their governors, wou'd anticipate their wishes and their wants ; and what was refused to violence and insult, would cheerfully be given to gratitude and affection.

THE operation of these principles produced a profound calm in Virginia : the different orders of government apparently uniting their affections and policy to advance the general interest, and that of the colony. At peace with the Indians, and having no constitutional points amongst themselves, whose discussion might enflame their resentment, and excite their fears, it is not wonderful, that their history, during this period, and for a considerable time after, furnishes little curious or important.

NOR was there in the colony a direction sufficiently strong towards matters of taste or literature, to compensate for the barrenness of military or political incident. This may be properly denominated the dark age in Virginia : for although there are many instances of good sense, and even some of bold and appropriate expressions, of shrewdness and sagacity, in their assemblies, these are rather exceptions to the general

rule. Not a remnant has descended to us of any moral disquisition, of the investigation of any problem; in any science. No ode, no sonnet shines, even for a moment, thro' the gloom; so that little is hazarded in asserting, that Virginia, since 1624, was stationary, if not retrograde in her taste and aquirements.

IT may be objected, that the plan of an university proposed, and successfully carried through, does not seem to justify this opinion; that a scheme of education, so generous and extensive, bespeaks a relish for literature, and a strong sense of its value: but wide is the interval between a consciousness of ignorance, or even the desire of removing it; and the actual attainment of knowledge.

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LET us now pause for the purpose of examining, with APPENDIX. more attention, the ground, which has been trodden. In order to preserve the unity and compactness of historical detail, it has been thought more judicious to leave out all unnecessary digressions and abstruse or subtle disquisitions. Minute details of revenue and finance; the organization of courts of justice, and the nature and extent of their jurisdiction; the state of arts and manners are, for a like reason, excluded from a narrative of facts. Arranged under separate heads, they naturally succeed: holding up a clear mirror to the events, which have gone by; and exhibiting a moral and philosophical picture of the evanescent materials. Such an examination of the last hundred years at least, may not be wholly uninteresting: and it will afford a relief to the mind alternately agitated or becalmed, by the violence, the rapidity, or languor of the incidents, which are related.

By the dissolution of the proprietary government, the London company were, with scarcely the shadow of justice, violently deprived of a property, which, with infinite danger and loss of blood and treasure, they had reclaimed from the wilderness. The loss of the colonists was infinitely more serious and alarming. In the annihilation of the company's authority was involved the destruction of that frame of government, which was so endeared by the benefits and the happiness it was daily conferring; and the people saw their rights and properties exposed without defence to the avarice, rapacity and arbitrary spirit of the court.

CONSIDERABLE solicitude and apprehensions prevailed with respect to the views of the king; and the opposition, which had been made by the people and the assembly to the dissolution of the proprietary pending the dispute, was continued after its decision and termination. They continued to pray, that their properties might be assured to them; that the use of assemblies might be continued, and that none of

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APPENDIX. the faction of the earl of Warwick should be permitted to bear any part in the administration of justice and government. James and after him Charles, reluctantly consented to the first and last part of the prayer; but it was a considerable time before an unequivocal acknowledgment and admission of their right to the use of assemblies could be obtained. Even then, it was more a concession of grace than of right; and it was unaccompanied by any of the formalities and solemnities usual in the ratification of national contracts. No charter was granted; no constitution or contract had been entered into between the king and the colonists.

ALL they had to rest on was the king's declaration in his instructions to sir William Berkeley, that in all its concerns, civil or ecclesiastical, the colony was to be governed according to the laws of England; that civil and criminal justice were to be decided agreeable to the forms of legal procedure in the mother country, and that the governor and council conjointly with the representatives, should form supreme legislative authority in the colony.

THESE immunities were in themselves sufficiently liberal: but they wanted that assurance and security essential to freedom. The body of instructions to the governor was a private document, and the blessings it immediately conferred lost much of their value by the reflection, that they might be recalled with the same levity and caprice by which they were granted.

THE personal influence of sir W. Berkeley contributed to appease the public anxiety; and by a security, natural to men, who are happy for the present, they enjoyed the blessings of actual freedom, without appearing to think that their lot was liable to be affected by future disasters or vicissitudes.

THE revolution in England, and the military splendor of the commonwealth, together with a temporary change in their condition, was accompanied with consequences on the character and sentiments of the people, which outlived the event that gave them birth; and although the insurrection in favor of the royal cause, and their conduct for a short time after the restoration, would seem to speak a perfect acquiescence under a royal government, we must certainly date the revival of public spirit, and the caution and jealousy of patriotism, by this event.

IN vain did the king enjoin the erasure of all acts derogatory to royalty from the journals of the colony: events of so much boldness and grandeur had left an impression too deep to be effaced by precautions, either verbal or written, and every year disclosed some new proof of their impatience to procure a more secure and permanent establishment.

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THIS regular, but gradual expansion of public sentiment, APPENDIX produced the co-operation of the different branches of government in 1667, for an improvement in the political condition of the colony ; and agents were appointed by the general assembly to procure a charter on principles more suited to the circumstances of the colony, and the increased intelligence of the people. It has been shown with what spirit, perseverance, and success these agents urged the claims of the colony, against the apprehensions, the jealousy, and the sophistry of the court ; and how the new charter was almost immediately revoked, owing to the resentment, or rather the fears excited by the rebellion of Bacon.

THE government, in its forms and powers, was nearly the same as under the proprietary, in 1624. The general assembly, consisting of the governor, council, and burgesses, consulted in the same apartment ; and every thing was decided by a plurality of votes. This was the simple process of enacting laws. After the restoration an important innovation took place in this department, and the governor was invested with an absolute negative on the proceedings of the other branches.

THE number of the executive, including the governor, since the year 1624, occasionally varied from twelve to fourteen ; and during the whole of the period above-mentioned, with scarcely any emolument, they discharged alternately the duties of a judiciary, a legislature, and an executive. The small sum set apart for the compensation of those arduous and comprehensive functions was judiciously distributed amongst them, in the exact ratio of their attention and activity.

THE executive duties of the council were, to assist the governor by their advice ; but they were allowed no check or control on his opinions ; and the governor was at full liberty to carry into effect any opinion not incompatible with his commission, in defiance of their united opposition. Yet, though they seem at first view to possess only the shadow of authority, they had a real and substantial power, arising from the various important duties they were in the habit of discharging.

As judges of the general court, their influence was extended throughout the colony. As members of an assembly, where every thing was decided absolutely by vote, and the representatives were few in number, their number and influence would have no small weight in the decision of all important questions ; and their aid would be assiduously courted by the court and popular parties, if such actually existed. The personal influence of sir W. Berkeley had, however, in a great measure, destroyed these distinctions.

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APPENDIX. EVEN in the executive department, where they appear to be wholly shorn of authority, it was neither safe nor prudent in the governor to act for any considerable time in defiance of their counsel, or to manifest any contempt or slight towards their persons or office. The fate of Hervey evidenced their importance in the government, and the alarming authority with which they were clothed : an authority, neither derived expressly from any warrant or commission, nor specifically marked out in the original distribution of powers ; but from their united influence of executive, legislative, and judicial functions.

" BEFORE the year 1680 the council sat in the same house with the burgesses of assembly, much resembling the model of the Scotch parliament ; and the lord Culpepper, taking advantage of some disputes among them, procured the council to sit apart from the assembly ; and so they became two distinct houses, in imitation of the two houses of parliament in England, the lords and commons : and so is the constitution to this day."*

THE power of the governor was less equivocal, and his revenues more ample. Like the king, whose authority he faintly reflected, he was himself always sufficient to the purposes of government. By a stroke of the pen he might summon assemblies, and disperse them by the breath of his nostrils. Like him, he was the fountain of all honors and emoluments : the head of the church ; the general of the armies, and high admiral of all the waters included within the maritime jurisdiction of his government.

THE only check to a patronage so extensive, and power so enormous, was the right possessed by assemblies of granting or refusing supplies. But in order to be efficient this power should be thoroughly understood, and exercised with unremitting jealousy and attention ; and these requisites, which were rare even in the commonwealths of England, could not be supposed to have attained any considerable maturity or efficiency in a remote colony, where the popular qualities of a governor, who was an object rather of affection than distrust, could lull suspicion to sleep, and silence disaffection in its birth.

INDEED a spirit of complaisance and accommodation was reciprocated between the different branches during the greater part of sir Wm. Berkeley's administration, which would seem to render distrust or jealousy unnecessary, if experience had not shown that these qualities are always essen-

* Beverley.

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ual to the security and permanence of liberty. These remarks APPENDIX. are particularly true of Virginia, who had no regular constitution, and where the executive would be disposed to give as wide a latitude as possible to his undefined authority.

“ § 2. THE governor is appointed by the crown ; his commission is under seal, and runs during pleasure.

“ HE represents the king’s person there in all things, and is subject to his instructions.

“ HIS assent is necessary to the laws, agreed upon by the council and assembly : without it no law can be made.

“ HIS test to all laws, so assented to, is also requisite.

“ HE calls assemblies by advice of council, but prorogues or dissolves them without.

“ HE calls and presides in all councils of state, and hath his negative there also.

“ HE appoints commissioners of county courts for the administration of justice, by consent of council.

“ HE grants commissions to all officers of the militia, under the degree of a lieutenant general, (which title he bears himself) as he thinks fit.

“ HE orders and disposes the militia for the defence of the country.

“ HE tests proclamations.

“ HE disposes of the unpatented land according to the charter, the laws of that country, and his instructions ; for which end, and for the public occasions, the seal of the colony is committed to his keeping.

“ ALL issues of the public revenue must be on his test.

“ AND, by virtue of a commission from the admiralty, he is made vice-admiral.

“ THE governor’s salary, till within these forty five years last past, was no more than a thousand pounds a year ; besides which, he had about five hundred more in perquisites. Indeed, the general assembly, by a public act, made an addition of two hundred pounds a year to sir Wm Berkeley in particular, out of a great respect and esteem they bore that gentleman, who had been a long time a good and just governor ; and who had laid out the greatest part of his revenue in experiments for the advantage and improvement of the country ; and who had besides suffered extremely in the time of the usurpation. But this addition was to determine with his government.

“ Sir William Berkeley, after the short interval of Jeffrey’s and Chicherley’s being deputy governors, was succeeded by the lord Culpepper ; who, under pretence of his being a peer of England, obtained of king Charles II a salary of two thousand pounds, besides one hundred and sixty

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APPENDIX. pounds a year for house rent, because there was no house appointed by the country for the governor's reception. This salary was continued ever since to the succeeding governors.

"IF the administration of the government happened to fall into the hands of the president and council, there is then usually allowed to the president the addition of five hundred pounds a year only ; and to the council no more than what is given them at other times."*

THE house of burgesses was composed of representatives from the several counties. As each county was represented in the ratio of her titheable inhabitants, the number was necessarily unequal ; and as the governor was looked on as the image of the sovereign, the representatives fondly cherished the resemblance between their corps and the house of commons. A close imitation of the forms of that celebrated body was visible in their proceedings ; and like them, they considered themselves as the sole and legitimate organs of the public will.

THEY were convened by writs issued from the office of the secretary of state, under the seal of the colony and the signature of the governor, and these writs are directed to the sheriffs of the several counties, and should bear date forty days at least before their return. The mode of summoning the voters is by a publication of the writ at every church and chapel in the country, two several Sundays successively.

THE laws passed at their meeting, having received the assent of the governor, are, with all convenient dispatch, transmitted to the king for his approbation. But they remain in full force until his pleasure be known ; and his silence is interpreted into an assent. No special times are appointed for their meeting, and much of their weight is lost on this account. Nothing but the power with which they are vested of raising and appropriating revenue, would render them of any account in the constitution.

“§ 4 THE burgesses of assembly are elected, and returned from all parts of the country, viz. from each county two, and from James-City one, and from the college one ; which make up in all sixty burgesses : They are convened by writs issued from the secretary's office, under the seal of the colony, and the test of the governor. These are directed to the sheriff of each county respectively, and ought to bear date at least forty days before the return....The free-holders are the only electors, and wherever they have a free-hold, (if they be not women, or under age or aliens) they

* Beverley.

have a vote in the election. The method of summoning the freeholders, is by publication of the writ, together with the day appointed by the sheriff for the election, at every church and chapel in the county, two several Sundays successively. The election is concluded by plurality of voices; and if either party be dissatisfied, or thinks he has not fair treatment, he may demand a copy of the poll, and upon application to the house of burgesses, shall have his complaint enquired into. But to prevent undue elections, many acts have been there made agreeably to some lately enacted in England.

"THE first business of a convention, by the governor's direction, is to make choice of a speaker, and to present him in full house to the governor. Upon this occasion the speaker, in the name of the house, petitions the governor to confirm the usual liberties and privileges of the assembly; namely, access to his person, whenever they shall have occasion; a freedom of speech and of debate in the house, without being farther accountable; a protection of their persons and their servants from arrest, &c. And these being granted by the governor, and the cause of their meeting declared by him, they proceed to do business; choosing committees, and in other things imitating, as near as they can, the method of the honorable house of commons in England.

"THE laws having duly past the house of Burgesses, the council and the governor's assent; they are transmittted to the king, by the next shipping, for his approbation, his majesty having another negative voice. But they immediately become laws, and are in force, upon the governor's first passing them, and so remain, if his majesty don't actually repeal them; although he be not pleased to declare his assent one way or other.

"THERE are no appointed times for their convention; but they are called together whenever the exigencies of the country make it necessary, or his majesty is pleased to order any thing to be proposed to them."*

THE administration of justice was in the general court, Administra consisting of a quorum of the council, with the governor acting as president; and during his absence, the senior coun- tice. cillor. This court had cognizance of all matters, civil, cri- minal, or ecclesiastical.

"THEY sat first only twice a year: their sessions were afterwards increased to three, and were called quarter courts. In the year 1632 another innovation took place. Four quarter courts were appointed to be held at James-Town yearly, viz.

* Beverley.

APPENDIX. on the first days of September, December, March, and June I have not been able to learn whether any other change took place within the period we are describing, in the time or mode of administering justice by this body

THE assembly possessed a general and appellate jurisdiction, and their decisions were final on all matters of appeal brought from the general court or the county courts. They discharged sometimes the duties of a grand national inquest, and acted occasionally as a high court of impeachment.

“ § 125. To return to my lord Culpepper’s government,” says Beverley, “ I cannot omit a useful thing, which his lordship was pleased to do with relation to their courts of justice. It seems, nicety of pleading, with all the juggling of Westminster-Hall, was creeping into their courts: the clerks began, in some cases, to enter the reasons with the judgments, pretending to set precedents of inviolable form to be observed in all future proceedings. This my lord found fault with, and retrenched all dilatory pleas, as prejudicial to justice, keeping the courts close to the merits of the cause, in order to bring it to a speedy determination, according to the innocence of former times; and caused the judgments to be entered up short, without the reason, alledging, that these courts were not of so great experience, as to be able to make precedents to posterity; who ought to be left at liberty to determine according to the equity of the controversy before them.”

“ § 130. THIS lord, says the same historian, speaking of Lord Howard, though he pretended to no great skill in legal proceedings, yet he made great innovations in their courts, pretending to follow the English forms. Thus he created a new court of chancery, distinct from the general court, who had ever before claimed that jurisdiction. He erected himself into a lord chancellor, taking the gentlemen of the council to sit with him, as mere associates and advisers, not having any vote in the causes before them. And that it might have more the air of a new court, he would not so much as sit in the state house, where all the other public business was dispatched, but took the dining room of a large house for that use. He likewise made arbitrary tables of fees, peculiar to his high court. However his lordship not beginning this project very long before he left the country, all these innovations came to an end upon his removal; and the jurisdiction returned to the general court again, in the time of colonel Nathaniel Bacon, whom he left president.”

Of the Courts of Law, in Virginia.

" § 22. I HAVE already, in the chronology of the government, hinted what the constitution of their courts was in old times, and that appeals lay from the general court to the assembly. That the general court, from the beginning, took cognizance of all causes whatsoever, both ecclesiastical and civil; determining every thing by the standard of equity and good conscience. They used to come to the merits of the cause as soon as they could, without injustice, never admitting such impertinences of form and nicety as were not absolutely necessary: and when the substance of the case was sufficiently debated, they used directly to bring the suit to a decision. By this method all fair actions were prosecuted with little attendance, all just debts were recovered with the least expence of money and time, and all the tricking and foppery of the law happily avoided.

" THE lord Culpepper, who was a man of admirable sense, and well skilled in the laws of England, admired the constitution of their courts, and kept them close to this plain method; retrenching some innovations that were then creeping into them, under the notion of form; although, at the same time, he was the occasion of taking away the liberty of appeals to the assembly.

" BUT the lord Howard, who succeeded him, endeavored to introduce as many of the English forms as he could, being directly opposite to the lord Culpeper in that point.

" AND lastly, governor Nicholson, a man the least acquainted with the law of any of them, endeavored to introduce all the quirks of the English proceedings, by the help of some wretched pettifoggers, who had the direction both of his conscience and his understanding.

" § 23. THEY have two sorts of courts, that differ only in jurisdiction; namely, the general court, and the county courts.

" § 24. THE general court is a court held by the governor and council, or any five of them, who by law are the judges of it, and take cognizance of all causes, criminal, penal, ecclesiastical, and civil. From this court there is no appeal, except the thing in demand exceeds the value of three hundred pounds sterling; in which case an appeal is allowed to the king and council in England, and there determined by a committee of the privy council, called the lords of appeal; the like custom being used for all the other plantations. In criminal cases I don't know that there is any appeal from the sentence of this court; but the governor is authorised by his commission, to pardon persons found guilty of any crime

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APPENDIX. whatsoever, except of treason and wilful murder; and even in those cases he may reprieve the criminal, which reprieve stands good, and may be continued from time to time, until his majesty's pleasure be signified therein.

" § 25. THIS court is held twice a year, beginning on the 15th of April, and on the 15th of October: each time it continues eighteen days, excluding Sundays; if the business hold them so long: and these were formerly the only time of gaol-delivery: but now by the governor's commission, he appoints two other courts of gaol-delivery: and the king allows one hundred pounds for each court, to defray the charge thereof.

" § 26. THE officers attending this general court, are the sheriff of the county wherein it sits, and under officers. Their business is to call the litigants and their evidences in court, and to impannel juries; but each sheriff in his respective county makes arrests, and returns the writs to this court.

" § 27. THE way of impanneling juries to serve in this court is thus: the sheriff and his deputies, every morning that the court sits, goes about the town, summoning the best of the gentlemen, who resort thither from all parts of the country. The condition of the summons is, that they attend the court that day to serve upon the jury, (it not being known whether there will be occasion or no) and if any cause happen to require a jury, they are then sworn to try the issue, otherwise, they are in the evening, of course, dismissed from all farther attendance: though they be not formally discharged by the court. By this means are procured the best juries this county can afford; for if they should be summoned by writ of *venire*, from any particular county, that county cannot afford so many qualified persons as are here to be found, because of the great resort of gentlemen from all parts of the colony to this county, as well to see fashions, as to dispatch their particular business. Nor is vicinage necessary there, to distinguish the several customs of particular places, the whole country being as one neighborhood, and having the same tenures of land, usages, and customs.

" THE grand juries are impannelled much after the same manner; but, because they require a greater number of men, and the court is always desirous to have some from all parts of the country, they give their sheriff orders a day or two before to provide his pannel.

" § 28. IN criminal matters this method is a little altered; because a knowledge of the life, the conversation of the party, may give light to the jury in their verdict. For this reason, a writ of *venire* issues in such cases, to summon six of the nearest neighbours to the criminal, who must be of the same

county wherein he lived; which writ of *venire* is returned by the sheriff of the respective county, to the secretary's office, and the names are taken from thence, by the sheriff attending the general court, and put in the front of the pannel, which is filled up with the names of the other gentlemen summoned in the town, to be of the petty jury for the trial of that criminal. If the prisoner have a mind to challenge the jurors, the same liberty is allowed him there as in England; and if the pannel fall short, by reason of such challenge, it must then be made up of the by-standers.

" § 29. ALL actions in that country are generally brought to a determination the third court, unless some special extraordinary reason be shown, why the party can't make his defence so soon. The course is thus: upon the defendant's non-appearance, order goes against the bail, (for a *capias* is generally their first process) on condition, that unless the defendant appear, and plead at the next court, judgment shall then be awarded for the plaintiff: when the defendant comes to the next court he is held to plead; thus by common course a year and a half ends a cause in the general court, and three or four months in the county courts. If any one appeal from the judgment of the county court, the trial always comes on the succeeding general court; so that all business begun in the county court, tho' it runs to the utmost of the law, (without some extraordinary event) ought to be finished in nine months.

" § 30. EVERY one that pleases, may plead his own cause, or else his friends for him, there being no restraint in that case, nor any licensed practitioners in the law. If any one be dissatisfied with the judgment of the county court, let it be for any sum, little or great, he may have an appeal to the next general court, giving security to answer and abide the judgment of that court: but an action cannot be brought originally in the general court, under the value of ten pounds sterling, or of two thousand pounds of tobacco, except in some particular cases of penal laws.

" § 31. THE county courts are constituted by law, and the justices thereof appointed by commission from the governor with advice of council. They consist of eight or more gentlemen of the county, called justices of the peace, the sheriff being only a ministerial officer to execute its process. This court is held monthly, and has jurisdiction of all causes within the county, cognizable by common law or chancery, and not touching life or member, and never was limited to any value in its jurisdiction, as mr. Oldmixon would have it, page 298: but in the case of hogstealing, they may sentence the criminal to lose his ears, which is allowed by a particular act

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APPENDIX. for that purpose, as the punishment of the second offence; the third is felony. In all things they proceed in the same manner as the general court.

“ § 32. This month court has the care of all orphans and of their estates; and for the binding out and well ordering of such fatherless children, who are either without an estate, or have very little.

“ IN September, annually, they are to enquire into the keeping and management of the orphan, as to his sustenance and education; to examine into his estate and the securities thereof; viz. whether the sureties continue to be responsible, and the lands and plantations be kept improving and in repair, &c. If the orphan be poor, and bound an apprentice to any trade, then their business is to enquire, how he is kept to his schooling and trade; and if the court find he is either misused or untaught, they take him from that master, and put him to another of the same trade, or of any other trade, which they judge best for the child. They cannot bind an orphan boy but to a trade, or the sea.

“ ANOTHER charitable method in favor of the poor orphans there, is this: that besides their trade and schooling, the masters are generally obliged to give them at their freedom cattle, tools, and other things to the value of five, six, or ten pounds, according to the age of the child when bound, over and above the usual quantity of corn and clothes. The boys are bound till one and twenty years of age, and the girls to eighteen: at which time they, who have taken any care to improve themselves, generally get well married, and live in plenty, though they had not a farthing of paternal estate.

Of the Church and Church Affairs.

“ § 33. THEIR parishes are accounted large or small, in proportion to the number of tithables contained in them, and not according to the extent of land.

“ § 34. THEY have, in each parish, a convenient church, built either of timber, brick, or stone, and decently adorned with every thing necessary for the celebration of divine service.

“ IF a parish be of greater extent than ordinary, it hath generally a chapel of ease; and some of the parishes have two such chapels, besides the church, for the greater convenience of the parishioners. In these chapels the minister preaches alternately, always leaving a reader to read prayers when he can't attend himself.

§ 35. THE people are generally of the church of England, which is the religion established by law in that country, from which there are very few dissenters. Yet liberty of con-

ence is given to all other congregations pretending to christianity, on condition they submit to all parish duties. They have but one set conventicle among them, namely, a meeting of quakers in Nansemond county, others that have lately been, being now extinct ; and 'tis observed, by letting them alone, they decrease daily.

“ § 36. THE maintenance for a minister there is appointed by law, at 16,000 pounds of tobacco per annum, (be the parish great or small) as also a dwelling house and glebe, together with certain perquisites for marriages and funeral sermons. That which makes the difference in the benefices of the clergy, is the value of the tobacco, according to the distinct species of it, or according to the place of its growth. Besides, in large and rich parishes, more marriages will probably happen, and more funeral sermons.

“ THE fee, by law, for a funeral sermon, is forty shillings, or four hundred pounds of tobacco ; for a marriage, by licence, twenty shillings, or two hundred pounds of tobacco ; and when the bans are proclaimed only five shillings, or fifty pounds of tobacco.

“ WHEN these salaries were granted, the assembly valued tobacco at ten shillings per hundred ; at which rate the sixteen thousand pounds comes to fourscore pounds sterling ; but in all parishes where the sweet scented grows, since the law for appointing agents to view the tobacco was made, it has generally been sold for double that value, and never under.

“ IN some parishes likewise, there are, by donation, stocks of cattle and negroes, on the glebes, which are also allowed to the minister, for his use and encouragement : he only being accountable for the surrender of the same value, when he leaves the parish.

“ § 37. For the well governing of these, and all other parochial affairs, a vestry is appointed in each parish. These vestries consist of twelve gentlemen of the parish, and were at first chosen by the vote of the parishioners, but upon the death of any, have been continued by the survivors electing another in his place. These, in the name of the parish, make presentation of ministers, and have the sole power of all parish assessments. They are qualified for this employment by subscribing to be conformable to the doctrine and discipline of the church of England. If there be a minister incumbent he is always in the vestry.

“ FOR the ease of the vestry in general, and for discharging the business of the parish, they choose two from among themselves, to be church wardens, which must be annually changed, that the burthen may be equally upon all. The business of these church wardens is to see the orders and agree-

APPENDIX. ments of the vestry performed ; to collect the parish tobacco, and distribute it to the several claimers ; to make up the accounts of the parish, and to present all profaneness and immorality to the county courts, and there prosecute it.

" By these the tobacco of the minister is collected, and brought to him in hogsheads convenient for shipping ; so that he is at no further trouble, but to receive it in that condition. This was ordained by the law of the country, for the ease of the ministers, that so they being delivered from the trouble of gathering in their dues, may have the more time to apply themselves to the exercise of their holy function, and live in a decency suitable to their order. It may here be observed, that the labor of a dozen negroes, does but answer this salary, and seldom yields a greater crop of sweet scented tobacco than is allowed to each of their ministers.

§ 38. PROBATES of wills and administrations are, according to their law, petitioned for in the county courts ; and by them security taken and certified to the governor, which, if he approve, the commission is then signed by them, without fee. Marriage licences are issued by the clerks of those courts, and signed by the justice in commission, or by any other person deputed by the governor, for which a fee of twenty shillings must be paid to the governor. The power of induction, upon presentation of ministers, is also in the governor.

" IN the year 1642, when the sectaries began to spread themselves so much in England, the assembly made a law against them, to prevent their preaching and propagating their doctrines in that colony. They admitted none to preach in their churches, but ministers ordained by some reverend bishop of the church of England ; and the governor for the time being, as the most suitable public person among them, was left sole judge of the certificates of such ordination, and so he has continued ever since.

§ 39 THE only thing I have heard the clergy complain of there, is what they call precariousness in their livings ; that is, they have not inductions generally, and therefore are not entitled to a freehold ; but are liable, without trial or crime alledged, to be put out of the vestry : and though some have prevailed with their vestries, to present them for induction, yet the greater number of the ministers have no induction, but are entertained by agreements with their vestries ; yet are they very rarely turned out, without some great provocation ; and then, if they have not been abominably scandalous, they immediately get other parishes. For there is no benefice whatsoever in that country that remains without a minister if they can get one, and no qualified minister ever

yet returned from that country for want of preferment. They APPENDIX.

Concerning the College.

" § 40. THE college, as has been hinted, was founded by their late majesties, king William and queen Mary, of happy memory, in the year 1692. Towards the founding of which they gave 1985*l.* 14*s.* 10*d.* They gave moreover, towards the endowment of it, 20,000 acres of land, the revenue of one penny per pound on tobacco, exported to the plantations from Virginia and Maryland; and the surveyor general's place of the colony, then void, and appointed them a burgess to represent them in the assemblies. The land hitherto has yielded little or no profit; the duty of one penny per pound brings in about two hundred pounds a year; and the surveyor general's place about fifty pounds a year. To which the assembly had added a duty on skins and furs exported, worth about an hundred pounds a year.

" § 41. By the same charter likewise, their majesties granted a power to certain gentlemen, and the survivors of them, as trustees, to build and establish the college, by the name of William and Mary College; to consist of a president and six masters or professors, and an hundred scholars, more or less, graduates or non-graduates; enabling the said trustees, as a body corporate, to enjoy annuity spiritual and temporal, of the value of two thousand pounds sterling per annum; with proviso to convert it to the building and adorning the college; and then to make over the remainder to the president and masters, and their successors: who are likewise to become a corporation, and be enabled to purchase and hold to the value of two thousand pounds a year but no more.

" § 42. THE persons named in the charter for trustees are made governors and visitors of the college, and to have a perpetual succession, by the name of governors and visitors, with power to fill up their own vacancies, happening by the death or removal of any of them. Their complete number may be eighteen, but not to exceed twenty, of which one is to be the rector, and annually chosen by themselves, on the first Monday after the 25th of March.

" THESE have the nomination of the president and masters of the college, and all other officers belonging to it; and the power of making statutes and ordinances, for the better rule and government thereof.

" § 43. THE building is to consist of a quadrangle, two sides of which are not yet carried up. In this part are contained all conveniences of cooking, brewing, baking, &c. and convenient rooms for the reception of the president and

APPENDIX. masters, with many more scholars than are as yet come to it ; in this part are also the hall and school room.

“ § 44. THE college was intended to be an entire square, when finished ; two sides of this were finished in the latter end of governor Nicholson’s time, and the masters and scholars, with the necessary house-keepers and servants, were settled in it, and so continued, till the first year of governor Nott’s time, in which it happened to be burnt (nobody knows how) down to the ground, and very little saved that was in it, the fire breaking out about ten o’clock at night, in a public time.

“ THE governor and all the gentlemen that were in town, came up to the lamentable spectacle, many getting out of their beds. But the fire had got such power before it was discovered, and was so fierce, that there was no hopes of putting a stop to it, and therefore no attempts made to that end.

“ In this condition it lay till the arrival of colonel Spotswood, their present governor, in whose time it was raised the same bigness as before, and settled.

“ THERE had been a donation of large sums of money, by the honorable Robert Boyle, esqr. to this college, for the education of Indian children therein. In order to make use of this they had formerly brought half a dozen captive Indian children slaves and put them into the college ; this method did not satisfy this governor, as not answering the intent of the donor, so to work he goes among the tributary and other neighboring Indians, and in a short time brought them to send their children to be educated, and brought new nations, some of which lived four hundred miles off, taking their children for hostages and education equally, at the same time setting up a school in the frontiers convenient to the Indians, that they might often see their children under the first managements, where they learnt to read, paying fifty pounds per annum out of his own pocket to the school master there, after which they were brought to the college, where they were taught till they grew big enough for their hunting and other exercises, at which time they were returned home, and smaller taken in their stead.

Of the Militia in Virginia.

“ § 45. THE militia are the only standing forces in Virginia. They are happy in the enjoyment of an everlasting peace, which their poverty and want of towns secure to them. They have the Indians round about in subjection, and have no sort of apprehension for them : and for a foreign enemy, it can never be worth their while to carry troops sufficient to

conquer the country ; and the scattering method of their APPENDIX.
settlement will not answer the charge of an expedition to
plunder them : so that they feel none but the distant effect
of war ; which, however keep them so poor that they can
boast of nothing but the security of persons and habitations.

" 46. THE governor is lieutenant-general by his com-
mission, and in each county does appoint the colonel, lieute-
nant-colonel, and major, who have under them captains, and
other commissioned and subaltern officers.

" EVERY freeman, (by which denomination they call all,
but indented or bought servants) from sixteen to sixty years
of age, is listed in the militia ; which by a law is to be mustered
in a general muster for each county, once a year, and
in single troops and companies four times more at the least :
most people there are skilful in the use of fire arms, being
all their lives accustomed to shoot in the woods. This, to-
gether with a little exercising, woudl soon make the militia
useful.

" § 47. THE exact number of the militia is not now known,
there not being any account of the number of late years, but
I guess them at this time to be about eighteen thousand
effective men in all.

AND whereas, by the practice of former times upon
the militia law, several people were obliged to travel some-
times thirty or forty miles, to a private muster of a troop
or company, which was very burdensome to some more than
others, to answer only the same duty ; this governor, just
and regular in all his conduct, and experienced to put his
desires in dividing execution, so contrived, by dividing the
counties into several cantons or military districts, forming
the troops and companies to each canton, and appointing the
muster fields in the centre of each, that now throughout the
whole country none are obliged to travel above ten miles to
a private muster, and yet the law put in due execution.

" § 48. INSTEAD of the soldiers they kept formerly in forts,
and of the others after them by the name of rangers, to scour
the frontiers clear of the Indian enemy, they have by law
appointed the militia to march out upon such occasions,
under the command of the chief officer of the county, where
any incursion shall be notified. And if they, upon such ex-
pedition, remain in arms three days and upwards, they are
then entitled to the pay for the whole time ; but if it prove
a false alarm, and they have no occasion to continue out so
long, they can demand nothing.

" § 49. THE number of soldiers in each troop of light
horse are from thirty to sixty, as the convenience of the can-

APPENDIX. ton will admit ; and in a company of foot about fifty or sixty.
A troop or company may be got together at a day's warning.

Of the Servants and Slaves in Virginia.

“ § 50. THEIR servants they distinguish by the names of slaves for life, and servants for a time.

“ SLAVES are the negroes, and their posterity, following the condition of the mother, according to the maxim, *prætus sequitur ventrem*. They are called slaves in respect of the time of their servitude, because it is for life.

“ SERVANTS are those, which serve only for a few years, according to the time of their indenture, or the custom of the country. The custom of the country takes place upon such as have no indentures. The law in this case is, that if such servants be under nineteen years of age, they must be brought into court, to hear their age adjudged ; and from the age they are judged to be of, they must serve until they reach four and twenty : but if they be judged upwards of nineteen, they are then only to be servants for the term of five years.

“ § 51. THE male servants and slaves of both sexes, are employed together in tilling and manuring the ground, in sowing and planting tobacco, corn, &c. Some distinction, indeed, is made between them in their clothes and food ; but the work of both is no other than what the overseers, the freemen, and the planters themselves do.

“ SUFFICIENT distinction is also made between the female servants and slaves : for a white woman is rarely or never put to work in the ground, if she be good for any thing else. And to discourage all planters from using any women so, their law makes female servants working in the ground titheables, while it suffers all other white women to be absolutely exempted : whereas, on the other hand, it is a common thing to work a woman slave out of doors ; nor does the law make any distinction in her taxes, whether her work be abroad or at home.

“ § 52. BECAUSE I have heard how strangely cruel and severe the service of this country is represented in some parts of England ; I can't forbear affirming, that the work of their servants and slaves is no other than what every common freeman does.

Other officers. “ § 8. BESIDES the governor and council aforementioned there are three other general officers in that colony, bearing his majesty's immediate commission, viz. the auditor of the revenue, the receiver general of it, and the secretary of state.

“ THE auditor's business is to audit the accounts of the public money of the government, and duly to transmit the

state of them to England; such as the quit-rents, the money arising by the two shillings per hogshead, fort duties, the fines and forfeitures, and the profit of escheats and rights of land. His salary is six per cent.

" THE present receiver-general is James Roscow, esqr.

" THE secretary's business is to keep the public records of the country, and to take care that they be regularly and fairly made up; namely, all judgments of the general court, as likewise all deeds and other writings there proved; and farther, to issue all writs, both ministerial and judicial, relating thereto. To make out and record all patents for lands, and to take the return of all inquests of escheats.

" IN this office is kept a register of all commissions of administration, and probates of wills, granted throughout the colony; as also of all births, burials, marriages, and persons that go out of the country; of all houses of public entertainment, and of all public officers in the country; and of many other things proper to be kept in so general an office.

" FROM this office are likewise issued all writs for choosing of burgesses, and in it are filed authentic copies of all proclamations.

" THE present secretary is Thomas Ficket, esqr.

" THE secretary's income arises from fees for all business done in his office, which come (*communibus annis*) to about 70,000 lbs. tobacco per annum; out of which he pays 12,500 and cash to the clerks; his own perquisites proceed out of the acknowledgments paid him annually by the county clerks, and are besides about 40,000 lbs. of tobacco and cash.

" § 9. THERE are two other general officers in the country, who do not receive their commission and authority immediately from the crown; and these are, 1st, The ecclesiastical commission, viz. the reverend James Blair, authorised by the right reverend father in God, the lord bishop of London, ordinary of all the plantations: 2d, The country's treasurer, viz. the honorable Peter Beverley, esqr. authorised by the general assembly.

" THE commissary's business is to make visitations of churches, and have the inspection of clergy. He is allowed one hundred pounds per annum, out of the quit-rents.

" THE treasurer's business is to receive the money from the several collectors, and to make up the accounts of the duties raised by some late acts of assembly, for extraordinary occasions: his salary is six per cent. of all money passing through his hands.

" THESE are all the general officers belonging to that government, except the court of admiralty, which has no

APPENDIX.

APPENDIX. standing officer. The present judge of the admiralty is John Clayton, esqr.

“ § 10. THE other publick commission officers in the government, (except those of the militia, which have been mentioned) are escheators, naval officers, collectors, clerks of courts, sheriffs of counties, surveyors of land, and coroners.

“ THE escheators have their precincts or bounds, according to the several necks of land : for their profits they demand five pounds for each inquest taken, being paid only as business happens.

“ THE naval officers have their bounds according to their districts on the rivers, and so have the collectors. The profits of the first arise from large fees, upon the entering and clearing of all ships and vessels. The collectors have each a salary out of the treasury in England of forty pounds, sixty pounds, or an hundred pounds, according to their several districts ; they being appointed by the honorable commissioners of the customs in England, pursuant to the statute made in the twenty fifth year of king Charles the second : and have moreover salaries of twenty per cent. on all the duties they collect, by virtue of the same statute, and also large fees for every entery and clearing.

“ THE naval officers’ other profits are ten per cent. for all the money by them received ; both on the two shillings per hogshead, port duties, skins and furs, and also on the new imposts, on servants and liquors, when such duty is in being.

“ THE clerks of courts, sheriffs, and surveyors, are limited according to the several counties. The clerks of courts receive their commissions from the secretary of state ; the sheriffs theirs from the governor, and the surveyors of land theirs from the governors of the college, in whom the office of surveyor-general is vested by their charter.

“ THE clerks’ profits proceed from stated fees, upon all law suits and business in their respective courts, except the clerk of the general court, who is paid a salary by the secretary, and takes the fees of that court to himself.

“ THE sheriff’s profit is likewise by fees on all business done in the county courts, to which he is the ministerial officer, and not judge of the county court, as Mr. Oldmixon styles him, page 289 ; but the best of his income is by a salary of all public tobacco, which is constantly put into the sheriff’s hands, to be collected and put into hundreds, convenient for the market. He has likewise several other advantages, which make his place very profitable.

“ THE profits of the surveyors of lands are according to the trouble they take : their fees being proportioned to the surveys they make.

“ THE coroner is a commission officer also, but his profits APPENDIX.
are not worth naming, though he has large fees allowed him when he does any business. There are two or more of them appointed in each parish, as occasion requires ; but in the vacancy or absence of any, upon an exigency, the next justice of peace does the business, and receives the fee, which is one hundred and thirty three pounds of tobacco for an inquest on a dead corpse, any other business seldom falling in his way.

“ § 11. THERE are other ministerial officers, that have no commission ; which are surveyors of the high ways, constables, and headboroughs. These are appointed, relieved and altered annually by the county courts, as they see occasion ; and such bounds are given them as those courts think most convenient.

“ § 12 THERE are five sorts of standing public revenues in that country, viz. 1st, A rent reserved by the crown upon all lands patent ; 2d, a revenue granted to his majesty by act of assembly, for the support and maintenance of the government ; 3d, a revenue raised by the assembly, and kept in their own disposal, for extraordinary occasions ; 4th, a revenue raised by the assembly, and granted to the college ; and 5th, a revenue raised by act of parliament in England upon the trade there.

“ § 13 1-st, THE rent reserved upon the lands is called his majesty’s revenue of quit-rents, and is two shillings for every hundred acres of land patented by any person in that country, and two pence per acre for all lands found to escheat ; this is paid into the treasury there by all except the inhabitants of the Northern Neck, who pay nothing to the king ; but the whole quit-rent of the neck is paid to certain proprietors of the lord Culpepper’s family, who have the possession thereof to themselves, upon the pretensions before rehearsed in the first part of the book.

“ THE revenue has been upwards of fifteen hundred pounds a year, since tobacco has held a good price. It is lodged in the receiver-general’s hands, to be disposed of by his majesty. This money is left in bank there to be made use of upon any sudden and dangerous emergency, except when it is called home to England. And for want of such a bank sir William Berkeley was not able to make any stand against Bacon, whom otherwise he might easily have subdued, and consequently have prevented above 100,000*l.* expence to the crown of England, to pacify those troubles.

“ § 14. 2d, THE revenue granted to his majesty by act of assembly, for the support and maintenance of the government, arises, 1st, out of a duty of two shillings per hogshead, which is paid for every hogshead of tobacco exported out of

APPENDIX.

APPENDIX. that colony ; 2d, by a rate of fifteen pence per ton for every ship, upon each return of her voyage whether she be empty or full ; 3d, by a duty of six pence per poll, for every passenger, bond or free, going into that country to remain ; 4th, by the fines and forfeitures imposed by several acts of assembly. There is also an addition upon wafts and strays having no owner, composition of two pence per acre for escheated land, chattles escheated, and the sale of land instead of rights, at five shillings per right : all which are paid into the hands of the receiver-general, and disposed of by the governor and council, (with liberty for the assembly to inspect the accounts when they meet) for defraying the public charges of the government.

“ **T**HE revenue, *communibus annis*, amounts to more than three thousand pounds a year.

“ § 15. 3d, **T**HE revenue arising by act of assembly, and reserved to their own disposal, is of two sorts, viz. a duty upon liquors imported from the neighbouring plantations, and a duty upon all slaves and servants imported, except English.

“ **T**HE duty on liquors used to be four pence per gallon, on all wines, rum, and brandy ; and one penny per gallon upon beer, cyder, and other liquors, discounting twenty per cent. upon the invoice, except oats.

“ **T**HE duty on servants and slaves used to be twenty shillings for each servant, not being a native of England or Wales, and five pounds for each slave or negro.

“ **T**HE former of these duties amounts, *communibus annis*, to six hundred pounds a year, and the latter to more or less, as the negro ships happen to arrive.

“ **T**HE charge of building and adorning the governor’s house and capitol was defrayed by these duties, and so was the erecting of the public prison.

“ **T**HE funds are gathered into the hands of the treasurer of the country, and are disposed of only by order of assembly.

“ § 16. 4th, **T**HE revenue raised by the assembly, and granted to the college, is a duty on all skins and furs exported. This fund raised about an hundred pounds a year, and is paid by the collectors to the college treasurer.

“ § 17. 5th, and last, **T**HE fund raised by act of parliament in England upon the trade there, is a duty of one penny per pound upon all tobacco exported to the plantations, and not arrived directly to England. This duty was laid by statute 25, Car. 2, cap. 7, and granted to the king and his successors ; and by their gracious majesties, king William and queen Mary, it was given to the college. This duty does not raise,

both in Virginia and Maryland, above two hundred pounds APPENDIX. a year, and is accounted for to the college treasurer.

“ § 18. THEY have but two ways of raising money publicly in that country, viz by duties upon trade, and a poll tax, which they call levies. Of the duties upon trade I have spoken sufficiently in the preceeding chapter. I come therefore now to speak of the levies, which are a certain rate or proportion of tobacco charged upon the head of every titheable person in the country, upon all alike, without distinction.

“ THEY call all negroes, about sixteen years of age, titheable, be they male or female; and all white men of the same age. But children and white women are exempted from all manner of duties.

“ THAT a true account of all these titheable persons may be had, they are annually listed in crop time, by the justices of each county respectively; and the masters of families are obliged, under great penalties, then to deliver to those justices a true list of all the titheable persons in their families. Their levies are threefold, viz. public, county, and parish levies.

“ § 19. PUBLIC levies are such as are proportioned and laid equally by the general assembly, upon every titheable person throughout the whole colony. These serve to defray several expences appointed by law to be so defrayed; such as the executing of a criminal slave, who must be made good to his owner; the taking up of runaways; and the paying of militia when they happen to be employed upon the service. Out of these are likewise paid the several officers of the assembly, and some other public officers. They farther defray the charge of the writs for the meeting of the house of burgesses, public expences, and such like.

“ THE authority for levying this rate is given by a short act of assembly, constantly prepared for that purpose.

“ § 20. THE county levies are such as are peculiar to each county, and laid by the justices upon all titheable persons, for defraying the charge of their counties: such as the building and repairing the court-houses, prisons, pillories, stocks, &c. and the payment of all services rendered to the county in general.

“ § 21. THE parish levies are laid by the vestry, for the payment of all charges incident to the several parishes, such as the building, furnishing, and adorning their churches and chapels; buying glebes, and building upon them; paying their ministers, readers, clerks, and sextons.

“ § 5. THE country is divided into twenty nine counties, Divisions. and the counties as they are in bigness, into fewer or more parishes, as they are filled with inhabitants.

APPENDIX. "THE method of bounding the counties is at this time with respect to the convenience of having each county limited to one single river for its trade and shipping ; so that any one, whose concerns are altogether in one county, may not be obliged to seek his freight and shipping in more than one river. Whereas at first they were bounded with respect to the circuit, and the propinquity of the extremes to one common centre; by which means one county reached then quite across a neck of land, from river to river. But this way of bounding the counties being found more inconvenient than the other, it was changed by a law into what it now is.

"BESIDES this division into counties and parishes, there are two other subdivisions, which are subject to the rules and alterations made by the county courts, namely, into precincts or boroughs, for the limits of constables; and into precincts or walks, for the surveyors of highways.

"§ 6. THERE is another division of the country into necks of land, which are the boundaries of the escheators viz.

"1. THE Northern Neck between Potomac and Rappahannock rivers : this is the proprietary in the lord Culpepper's family.

"2. THE neck between Rappahannock and York rivers, within which Pamunkey Neck is included.

"3. THE neck between York and James rivers.

"4. THE lands on the south side James river.

"5. THE land on the eastern shore : in all five divisions, each of which has its particular escheat master.

"IN the Northern Neck are contained six counties, 1. Lancaster, viz. in which are two parishes, namely, Christ Church, and St. Mary-White-Chapel. 2. Northumberland, two parishes, viz. Fairfield and Bouthary, and Wiccocomoco. 3. Westmoreland, two parishes, viz. Copely and Washington. 4. Standford, two parishes, viz. St. Paul and Overworton. 5. Richmond, one parish, viz. North-Farnham, and part of another, viz. Sittenburn. 6. King George county one parish, named Hanover, the other part of Sittenburn.

"IN the neck between Rappahannock and York Rivers are contained six other counties, viz 1. Gloucester, in which are four parishes, viz. Pesso, Abingdon, Ware and Kingston. 2. Middlesex, only one parish, viz. Christ Church. 3. King and Queen, two parishes, viz. Stratton Major, St. Stephens. 4. King William, two parishes, viz. St John's and St. Margaret's. 5. Essex, three parishes, viz. South Farnham, St. Anne, St. Mary's. 6. Spotsylvania, one parish, viz. St. George.

" In the Neck between York and James rivers, there are seven counties and part of one eighth ; the seven entire counties are, 1. Elizabeth City, in which is only one parish named also Elizabeth City Parish. 2. The Warwick, in which are two parishes, viz Denby, Mulberry Island. 3. York, in which are two parishes, viz. Charles and York-Hampton ; and part of a third called Brafferton. 4. James city in which are three parishes, and part of two others, viz. James City, part of Wilmington, Merchant's-Hundred, and the other half Bucton. 5. New-Kent, two Parishes, viz. Blisland and St Peter's. 6 Charles City, two parishes, viz. Western and part of Wilmington. 7. Hanover, one parish, viz. St Paul's, and 8. Part of Henrico county, on the north side James river, by which river the parishes are so divided, there being two parishes in the whole country, viz. Henrico and St. James, and part of a third called Bristol.

" On the south side James river are seven counties, and the other part of Henrico : the seven counties beginning at the Bay, as I have done in all the rest, are, viz. 1. Princess Ann, in which is but one parish, namely Lynhaven. 2. Norfolk, also one parish, called Elizabeth River. 3. Nansemond, in which are three parishes, viz Lower parish, upper-parish, Chickabec. 4. Isle of Wight, in which are two parishes, viz. Warwick, Squeeke-bay, and Newport. 5. Scerry, two parishes, Lyon's creek, Southwark. 6. Prince-George, in which is one parish, viz. Martin Brandon, and the other part of Bristol parish in Henrico. 7. Brunswick, a new county constituted towards the southern pass of the mountains, on purpose that by extraordinary encouragements, the settlements may send up that way first, as is given also to Spotsylvania county for the northern pass. It is made one parish by the name of St. Andrew.

" On the eastern shore, that is on the east side of the great bay of Chesapeak, the place to whi h sir William Berk'ey retired in the rebellion, without withdrawing from the government, (as mr Oldmixon declares he did) are two counties, 1. Northampton, having one parish named Hungers. 2. Accomac having one parish also named Accomac.

" In all there are at present twenty-nine counties, and fifty-four parishes.

" § 7. THERE is yet another division of the country into districts, according to the rivers, with respect to the shipping and navigation : These are the bounds appointed for the naval officers, and collectors of the public duties, and are as follows :

APPENDIX. " 1. THE upper parts of James river, from Hog island upwards.

" 2. THE lower parts of James river, from Hog island downwards to the capes, and round Point Comfort, to Black-river.

" 3. YORK, Poquoson, Mobjac-bay, and Pieankitank-river.

" 4. RAPPAHANNOCK-RIVER.

" 5. POTOMAC-RIVER.

" 6. POCOMOKE, and the other parts on the eastern, made formerly two districts ; but they are now united into one.

Indians.

" THE Indians of Virginia are almost wasted, but such towns, or people as retain their names, and live in bodies, are hereunder set down ; all which together can't raise five hundred fighting men. They live poorly and much in fear of the neighboring Indians. Each town, by the articles of peace, 1677, pays three Indian arrows for their land, and twenty beaver skins for protection every year.

" IN Accomac are eight towns, viz :

" MATOMKIN is much decreased of late by the small pox, that was carried thither.

" GINGOTEQUE. The few remains of this town are joined with a nation of the Maryland Indians.

" KIEQUOTANK is reduced to very few men.

" MATCHOPUNGO has a small number yet living.

" OCCEANOC has a small number yet living.

" PONGOTEQUE. Governed by a queen, but a small nation.

" OANANCOC has but four or five families.

" CHICONESSEX has very few, who just keep the name.

" NANDUGE. A seat of the empress. Not above twenty families, but she hath all the nations of this shore under tribute.

" IN Northampton, Gangasco, which is almost as numerous as all the foregoing nations put together.

" IN Prince George, Wyanoke is extinct.

" IN Charles city, Appomattox extinct.

" IN Surrey. Nottowayes, which are above a hundred bow men, of late a thriving and encreasing people.

" BY Nansemond. Menheering has about thirty bow-men, who keep at a stand.

" NANSAMEND. About thirty bow-men. They have increased much of late.

" IN King William's county, two. Pamaunkie, has about forty bow-men, wh^t decrease.

" CHICKAHOMONIE, which had about sixteen bow-men, but lately encreased.

"IN Essex. Rappahannoc, extinct.

"IN Richmond. Port-Tobago, extinct.

"IN Northumberland. Wiccomocco, has but few men living, which yet keep up their kingdom, and retain their fashion; yet live by themselves, separate from all other Indians, and from the English."*

THE exports of the colony, during the first thirty years, were confined exclusively to tobacco; but soon as the price of this article fell from three shillings and six pence the pound, to twenty shillings the hundred weight, the necessity of the people sought other sources of wealth. A trade was opened by several enterprizing individuals with the Indians at the head of the bay, with those on their frontiers, and the roving warriors of the Six Nations. The skins of the deer, the elk and buffaloe; together with the furs of the otter, the hare, the fox, the musk rat, and the beaver, were procured in exchange for rum, hatchets, blankets, &c &c.

THESE people, partly cured of the rage for making tobacco by the alarming depreciation, turned their attention to the more useful culture of English grain and Indian corn; and were in a short time able to raise abundantly more than sufficient for the home consumption. The surplus became a new item for exportation, and was either disposed of to the traders of Maryland, Carolina, New-York and New-England, or directly with the mother country.

THE enterprise of individuals had even induced them to carry on a trade in open boats with Canada. The ardor and adventurous spirit of the colonists, even so early as 1632, may be collected from an order of council forbidding any boat under ten tons and a flush deck, fitted with grating or tarpauling, to trade with Canada.

PREMIUMS were awarded to the owners of Virginia built vessels, and to the inventors of every useful discovery; but notwithstanding the alarming depreciation in their staple, and the attention of government to commerce and manufacture, tobacco still continued to be the principal article of exchange with Britain; and an immense proportion of the ships that traded with Virginia were wholly freighted with this commodity.

EVEN under all these unfavorable circumstances, the trade of Virginia would have been considerable, but for the restrictions imposed by the British parliament. These restrictions were, first a monopoly of the staple commodity by the king,

Commerce.

* Beverley.

APPENDIX. or farmers appointed by him. As if this had been insufficient, sir William Berkeley was instructed by his commission to take a bond from the masters of every vessel, that sailed from Virginia, to land his cargo in some part of the king's dominions in Europe. The ordinance of 1650, prohibiting foreign ships to enter her ports, was merely the prelude to two acts of the commonwealth, one of which expressly prohibited any kind of commercial intercourse between the colonies and other states; the other enjoined, that no production of Asia, Africa, or America should be imported into any of the dominions of the commonwealth but in vessels belonging to English owners, or to people of the colonies settled there, and navigated by an English commander, and by crews of which the greater part must be Englishmen.

THE people of Virginia calculated highly on the opinion of their loyalty, after the restoration, for an abatement or removal of those restraints; but the policy of Cromwell and the commonwealth were adopted by the king and parliament to their fullest extent; and as if even these were not sufficient, the celebrated navigation act was passed. By this, in addition to the former regulations, it was enacted, "that none but natural born subjects, or such as have been naturalized, shall exercise the occupation of merchant or factor in any English settlement, under pain of forfeiting their goods and chattels; that no sugar, tobacco, cotton, wool, indigo, ginger, or woods used in dying, of the growth or manufacture of the colonies, shall be shipped from them to any other country but England; and in order to secure the performance of this, a sufficient bond with one surety shall be given by the owners before sailing, for a specific sum, proportional to the rate of the vessel employed by them." The articles specified, in the language of the act are termed enumerated commodities, and, as industry in its progress furnished new articles of value, these have successively been added to the roll, and subjected to the same restraints.

AN extension of the navigation act, a short time after, prohibited the importation of any European commodity into the colonies, but what was laden in England, in vessels navigated and manned as the act of navigation required. It was openly avowed in this act, that the object and intent of these regulations was to retain the colonies in former dependence, and more beneficial and advantageous to it by the further employment, and increase of English shippers and seamen, as well as in the vent of the English wollen and other manufactures and commodities, and in making England a staple, not only of the commodities of those plantations, but also of the commodities of other countries and

places, for the supplying of them. In the prosecution of APPENDIX. those favorite schemes, says the historian, from whom I principally copy this commercial statement, the English legislature proceeded a step farther. As the act of navigation had left the people of the colonies at liberty to export the enumerated commodities from one plantation to another, without paying any duty, that subjected them to a tax equivalent to what was paid by the consumers of those commodities in England.

IT was pretended, that in return for the formation and settlement of the colonies by the mother country, all the fruits of future toil, perseverance and industry ought to be subject to severe selfish and oppressive regulations ; and the lives and properties and rights of the colonists were conceived of little account, compared with the aggrandisement and pride of the parent state.

THESE regulations, were in operation during a greater part of the time, embraced in the preceding narrative ; and we can easily imagine, what would be the state of commerce when clogged with so many monstrous restraints and monopolies ; yet, it is asserted, that the trade of Virginia, so early as the rebellion, yielded one hundred thousand pounds per annum, clear revenue to the king.

THE population of Virginia, experienced an astonishing Population. increase, during this period. In 1624 the population scarcely exceeded two thousand souls. At the time of her surrender to the commonwealth, she was supposed to contain twenty thousand ; and at the close of Bacon's rebellion, the estimate would fall little short of forty thousand. Pursuing the nation on either estimate, Virginia must have contained at least one hundred thousand at the close of this period.

THE military force, or more properly speaking, the militia, was composed of all those capable of bearing arms. Every man from 16 to 60, was enrolled on the muster lists ; and with few exceptions, were liable to be called out into service. Their long and dreadful conflicts with the Indians, and the absolute necessity, which was imposed on them, of vigilance, caution, and preparation, made them brave and expert soldiers. A strong military spirit always prevailed in the colony. The defence of sir William Berkley, against the troops of the commonwealth, displays a romantic gallantry. The temper and bravery of Bacon's soldiers afford an additional evidence of this fact. Their incessant battles with their Indian enemies place this matter beyond all question.

ALTHOUGH, the planters of Virginia were probably inferior to European troops, in grace and rapidity of evolution,

Military strength.

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APPENDIX. and certainly in military science, I very much question if they were not better partizans than any of them ; they never made use of tents ; but lay, whilst on service, on the bare earth : they had to contend with enemies, who rarely gave quarter, and whose vigilance, cunning and dreadful valor made every precaution necessary : they had to march thro' thick woods with their provisions on their back, exposed every moment to the most imminent dangers. The heart freezing tones of the war whoop were familiar to their ears, and the painted savage, with his tomahawk, glared on them from behind the trees as they passed.

THE standing forces of the colony, consisted of an officer and twenty men, raised as a guard for the governor and assembly; and of between thirty and forty men, employed to garrison the forts at the heads of the rivers. But these last were disbanded in the year 1676. The regular troops, sent to suppress the rebellion, were almost immediately disbanded.

Manufactures. THE manufactures do not appear to have made much progress during this period. We must not however, suppose from the silence of our records and historians on this head, that they were wholly neglected. The suspension of intercourse with England during a considerable part of the civil war, and afterwards the depreciation of their staple, prevented a sufficient supply of tools, instruments and clothing from Britain ; and after the restoration their attention was strongly attracted to home manufactures, as well by their necessities as the encouragement of the assembly, and bounty offered by the king. But the zeal displayed in the outset for those projects gradually cooled, and if we except the manufacture of coarse cloths, and unpainted cotton, and the ordinary exercise of handicraft articles of primary necessity ; nothing remained of that sounding list, prepared with so much labor by the king, and recommended by premium and royal bounty. The magnificent plans, for the manufacture of silk, of salt, and of iron, had vanished, or become so insignificant, that no mention is made of them.

Ship building. SHIP building, as furnishing a bolder field for speculation and enterprize, and as better suited to the genius and circumstances of the colony, became an object of more ardent and constant attention. A premium of 1300 pounds of tobacco was awarded by the assembly to the builders of vessels, not under twenty six tons, and instances frequently occur, where the reward was claimed. During the rebellion of Bacon, several ships from 150 to 300 tons burden, were owned by inhabitants of Virginia.

LITERATURE was at the lowest ebb during this period. APPENDIX.
 Until the year 1688 no mention is any where made in the records of schools, or of any provision for the instruction of youth. During that year, there is an order of council to collect the library sent over by the archbishop of London. The collection was doubtless composed in a great measure of religious works: the disputes of angry churchmen, and the labors of heavy commentators. Literature.

THE uniformity, which prevailed in Virginia, must have been highly injurious to the expansion of mind, by discountenancing all doubt and disputation. Curiosity is the child of doubt; but when the state assumes the right of thinking for its citizens, and punishes those, who dissent from the established tenets, how feeble are the opportunities of acquiring knowledge. After the year 1650 some faint traces of toleration appear. The sectaries, with the exception of papists, were permitted, under certain restrictions, to celebrate the rights of their worship; but they were too few in number compared with the people, and perhaps too much under the influence of fear, to startle belief, or raise curiosity by the ardor or constancy of opposition. Some circumstances, too, have appeared, which induce the propriety of qualifying what has been said respecting the mildness of church government in Virginia. I am informed, that in the office of the county court of Princess Anne, there exists the record of the trial, condemnation, and execution, by fire, of a woman, on a charge of witchcraft; and in all probability the case was not solitary. In 1705 a law was enacted against atheism. Its provisions, however, are not marked by any thing ferocious or sanguinary, and the clergy had very early been regarded with a jealousy, which checked their aspiring pretensions. The literature of the colony, during this period, was at its lowest ebb.

THE liberties of the colonists, as far as they depended on constitutions and conventions, were scanty and precarious, during a great part of this period; but as they were practically enjoyed, they were ample and substantial: and they were principally indebted for them to their own spirit and intelligence. Not all their obsequiousness to sir William Berkeley; not even their unfeigned respect and affection for his person and government, induced the slightest concession of their privileges. And when, at length, the sense of colonial grievances, added to the pressure of parliamentary restrictions dissolved the charm, which bound them for so long a time to this extraordinary man, they displayed in their resistance the same ardent and determined spirit by which they had ever been distinguished. Political liberties.

APPNEDIX.Commo-
dities.

THE price of corn and other articles of food; during this epoch, varied considerably, according to circumstances. Corn, at a medium, sold from ten to eighteen shillings the barrel. A bull was worth seven hundred pounds of tobacco, or eight pounds fifteen shillings. Poultry would naturally command a greater price, from the delays and difficulty of procuring a stock from Europe, and the inconvenience of their multiplication amongst cultivators, whose whole attention was almost wholly engrossed in clearing the forest for cultivation. A goose, during the administration of Hervey, cost twenty shillings, and we should conclude, that other fowls were in proportion.

THE rates of ordinaries, established in 1666, by sir Wm. Berkeley, will throw more light on this head than is to be collected from the rates of separate commodities. As these rates were stated to have been fixed, in order to prevent the extortion of keepers of taverns and eating houses, we should conclude they are lower than the previous charges.

A meal for a master,	-	-	15 lbs. tobacco.
Ditto for a servant,	-	10	do.
Lodging for either (per night)	-	5	do.
Spanish wines, per gallon,	10s. or 100		do.
French do.	8s. or 80		do.
Brandy, English spirits, or Virginia dram,	{ 16s. or 150		do.
Rum,	10s. or 100		do.
Beer,	4s. or 40		do.
Cyder or perry,	2s6 or 25		do.

These two last are stated to be rated proportionally higher, in order to encourage the produce of the country.

FROM the circumstances of the colony an horse must have been an animal at once rare and valuable. In the year fifty six the assembly ordered two thousand five hundred pounds of tobacco to be paid to John Page, for a horse lost in the expedition against the Rechahecians. The complaint of Page, and the wording of the order, show, that this sum was not thought equal to that which the horse might have commanded. If we estimate the tobacco at the market price only six years after, it will amount to an hundred pounds; a prodigious price, if we consider the rates in Europe during this period. In the same year, on the petition of Richard Nicholas, it was ordered, "that sixteen hundred pounds of tobacco be paid him, for the charges and cost he had been at in recovering and finding a horse, which had been on the service in the same expedition." At the same time Richard Walker was ordered five hundred pounds of tobacco "for finding

the horse of Henry Jupons, and four hundred more when he found that of Richard Eggleston."

A BRIDGE was erected during this period over Chickahominy river, between the counties of New Kent, and Charles City.

THE attornies general, whose names have survived, were — and E. Jennings ; auditors, Nathaniel Bacon and Wm. Bird : secretaries of council, or of state ; Kemp, Finch, Hartwell, Corker, Ludwell, Spencer and Cole : commissaries, Temple and Blair ; and the clerks of assembly, Minje, Norwood, H. Randolph, Beverley, Page, and Beverley.

PAPERS

*RELATING TO THE MISSION FOR PROCURING A MORE
PERFECT CHARTER.*

Right Honorable,

As the prudence of princes is in nothing more apparent than in the choice of their ministers ; so his majesty making choice of, and calling your honor to that high place, and degree of trust, wherein you now are, and we heartily wish you may long continue for the advantages of his majesty's dominions, and increase of your own honor, doth clearly evince that truth, and thence it is, that we (who are a remote but a very considerable part of the English nation, if considered either for the present revenue we bring to the crown, and advantages to the nation, by vending their manufactures, employment of shipping, and encreasing their trade, or for what may be reasonably expected hereafter from so growing a plantation) do by this, address ourselves to your lordship, with this petition, that your lordship will consider our present condition, and hear those reasons, which we have ordered our agents, col. Francis Morrison, mr. secretary Ludwell and major general Robert Smith, to present to your lordship, why we are unwilling, and conceive ought not to submit, to those, to whom his majesty (upon misinformation) hath granted the dominion over us, who do most contentedly pay to his majesty more than we have ourselves for our labor, and do wish, that we could yet be more advantageous to the king and nation, for which we hope to find his majesty's most royal favor and protection from such impositions, as will ruin us, and consequently his majesty's revenue, from what we contend for ; we humbly request your lordship will judge reasonable. Since, it is no

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APPENDIX. more but that, whilst we labour for the advantage of the crown, we may not be separated from, and subjected to our fellow subjects, contrary to all former gracious promises and assurances from our royal masters; if this be reasonable and just for us, and necessary for his majesty's service, we humbly beg your honor's assistance in this, observing what may again set us free, and for the future secure us from our fears of being enslaved, and we shall acknowledge your favors, the best way we can, and for ever pray for your lordship's prosperity, as being right and honorable.

Your honor's most humble servt.

WM. BERKELEY.

In the name of the council,

THOS. LUDWELL, sec.

ROBT. WYNNE, spk'r. H. B:

Dated from the assembly, holden in }
James City the 21st Sept. 1674. }

BEING to wait on the right honorable lord Arlington, with a letter from the governor of Virginia, and his lordship commanding us so to give him the heads of that demise, granted to him, and the lord Culpepper, which the colony of Virginia were disturbed at, in obedience whereto, and out of desire of a fair comp' sure of the difference arising from the said grant we have taken out, and do present to his lordship, these heads of the late demise, to his said lordship, and lord Culpepper, their executors, administrators and assigns, for one and thirty years.

FIRST, the entire territory, tract and dominion, commonly called Virginia, with the territory of Accomack, with all rights, appurtenances and jurisdictions, together, with all rivers, waters and royalties whatsoever; are granted, as aforesaid, and bounded on the north, with the dominion of Maryland; on the east, with the sea; on the south, with Carolina, with all islands within the said bounds, and within ten leagues of the shore.

2dly, THE escheats of all lands, which shall become forfeit to his majesty, his heirs, or successors, are granted as above said, under uncertain compositions.

3dly, THE quit rents, and other rents, payments, duties and reservations, upon any grants of the premises whatsoever, due to his majesty, are granted to the said lords, grantees, for the term above said; to be paid in specie, and not in commodity; together with the arrearages of rent to their own use, without account; since the last day of May, 1669.

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4thly, POWER granted to the said lords, their executors APPENDIX. or assigns, during the term aforesaid : to grant all lands, not granted by the governor, before the date of the demise.

5thly, NOMINATION of all sheriffs, surveyors, escheat-
ors, &c.

6thly, PRESENTATION to all churches, and to endow them with lands, &c.

7thly, DIVIDING all the said territory in parishes, coun-
ties, &c.

8thly, THE making a new seal, for the sealing all grants, confirmations, &c. of all lands, to be granted by their ho-
nors, or their deputies, together with power of keeping re-
gisters or records of all such grants. confirmations, &c. and
making all their records of the same for the future void.

9thly, THE governor and council of Virginia now, or for the time to come are, by the said demise, forbidden to grant any more lands within the said tract and territory of Virginia ; with a *non obstante* to all former power, laws, instructions, &c. whatsoever, formerly granted to them, or any of them.

10thly, THE demise being for the term of 31 years hath yet power of granting lands in fee simple, which being con-
trary to law, may deceive those who shall sue out such grants, since the foundation of their title, being illegal, they may be ousted of their possession, after they have laid out their estates, after duties upon them ; and consequently ruined.

THESE are most of the principal causes in the said demise, which we humbly conceive to be contrary to his majesty's service, and destructive to the peace and welfare of that colony; and do hope the said honorable lords, will consider the inconveniences of it and quit their present grant ; con-
tenting themselves with another, for the quitrents only, and those to be paid in tobacco, at a reasonable value, since there is not coin in that country to pay them ; which we shall willingly agree to, but upon good reasons (too long here to recite except against all other clauses above mentioned) and if what we here offer, be accepted by the said honorable lords, we do humbly desire their lordships' speedy answer that otherwise we may proceed upon our instructions from which our respects to their said lordships hath hitherto di-
verted us.

Your lordships' most humble servants.

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At a Court at Whitehall,
April 19th, 1676

By the king's most excellent majesty, and the right honorable the lords of his majesty's most honorable privy council.

WHEREAS, Francis Morrison, Thomas Ludwell, and Robert Smith, agents for his majesty's colony of Virginia, did, by their petition, this day read at the board, humbly represent, that they being employed and instructed by the government of that country, had formerly petitioned their majesties for a confirmation of their privileges and properties under the great seal of England, which petition was referred to the lords' committee of plantations, where it was again very carefully examined, and by some alterations made by them reported to his majesty in council, whereupon his majesty was pleased to order in council a bill to be passed under the great seal of the same; that when they came to pass the same there was a stop put to it, but for what reason they knew not; that they long since had sent a copy of the order of council into Virginia for passing the said bill, believing it to be for his majesty's service that the minds of his subjects should be settled there (as speedily as may be), and they thereby better encouraged to defend the country against the invasion of the Indians, since by that his majesty's royal grant they were secured in their just property in what they fought for; and praying his majesty would be graciously pleased to direct the lord chancellor to pass the said grant under t^e great seal: upon full debate of the whole matter it was ordered, by his majesty in council, that the right honourable the lord chancellor do cause the said grant forthwith to pass under the great seal of England accordingly.

PHILIP LOYD.

Most Honorable Gentlemen,

WE have deferred the giving you an account of those proceedings in those important affairs you committed to our care and management here till this time, that we ought to send it to you so much the more full and satisfactory to ourselves, and we hope to you, since we can with confidence and truth affirm, that we have neglected no time, nor omitted any opportunity wherein we could contribute any thing toward the obtaining of what you desired, or, we hope, for the future security of the liberties and properties of his majesty's subjects of that colony, and the further advantage of it; and are confident, that upon comparing what we have obtained to what you gave us in charge, you will find we have

some very little short of what you desired to be effected, as APPENDIX. will appear by a copy of the order here inclosed, which carries in it the body of that charter you may expect, to the particulars whereof we shall say thus much, viz. To the first head it was all we could obtain, since the council here were so unsatisfied with the proceedings of New England, as they resolved none else should ever have the title silently, and are resolved to re-assume that government into the king's hands for the future, the effecting whereof being at the same time under their consideration with our petition, gave us no small difficulty in the clearing ourselves from having the same desires of being independent from the crown. Then, for the word commonalty, instead of burgesses, it was put in by the king's council in favor of the country, as being more called in law; since, as they affirm, a grant of that nature cannot pass to an order of men, which, upon the dissolution and discontinuance of an assembly, are not: and they urged further, that the burgesses being the representatives of that commonalty, had still the advantages of that grant, which they were capable of. For the nonobstante in the fourth head, which reserves to the parliament here the power of laying further impositions upon the commodities, which comes from thence, its no more than what they had before, and what had not been safe for us to deny, it being the declared opinion of the lords here, that more is or, indeed, can be inferred from the words, on the commodities, which come from that country, after it is shipped in the way of trade to some part permitted by the laws of England. To the provision in the sixth head, it is intended only to secure the titles of those particular men, who in law might have a better title than the present possessor. To the bearing of the king's power of revoking any law made by the assembly, as is mentioned in the last head, we could not reasonably object any thing, since it is a power due to him, and thought fit here: for otherwise, as the council have affirmed, the king may be excluded from all power there, if such an unlimited power of making laws were allowed us; and, since our laws made there are to be in force until such time as the king shall signify his pleasure therein to the contrary, we may be sure, if they are reasonable, they will not be repealed from hence, which will be much more ease to the country, than by the other way, to be enforced to sue out a confirmation of them, in order to which we have every year sent our laws hither to be confirmed. Thus we hope we have, to your satisfaction, cleared what might seem dubious to you, and next we are to offer up to your consideration, that, in point of the escheats,

APPENDIX. we have obtained more than either what you had before, or ordered us to ask ; since now, all lands formerly or which hereafter shall escheat, are confirmed at two shillings per acre composition, and we do promise ourselves, that you shall esteem it a great honor to that government, as well as a convenience, that the governor hath no power to pardon all lesser crimes, and to reprieve for treason and murder. For the other heads in the charter, they are as full to your instructions as can be. We are in the next place to inform you, that a copy of your agreement with the lord Arlington and the lord Culpepper was sent to the governor, but lest that should miscarry, we send you another, wherein we hope you will find it reasonable, that the country should abate one half per pound in the quit-rents, in lieu of their quitting all the other ruinous clauses in that grant, especially if you consider that the right was on their side for the payment of it in money according to our patents, and that our inability to pay it so would put the disadvantage on our side ; and for the paying it in tobacco ad valorem, as it was impracticable by the several prices of tobacco, and must have kept the people at an uncertainty what to pay every year ; so we hope it will appear, that taking several sorts, rises and falls of that commodity, with a likelihood of being still cheaper by the quantities made, the constant standard we have put to it will be thought advantageous to the country : we are sure it is thought so here. We shall have some dispute with them about the value of the arrears, but what the success we yet know not, but are of opinion, after a year or two experience of the value of the whole, their lordships will be so well informed of the value as to afford a better pennyworth than now they do for the northern grant. We find it impractical to comply with your instructions, which enjoined us, first to endeavor the overthrowing, and, in case of failing, then to purchase all, or as many parts of it as we could ; and in case any of them refused, then to apply ourselves to the king to force them ; all which implied, that we should first provoke the lords, then come to a price with them, which we might be sure would be a great deal more than they offered to colonel Smith ; next its being without a broad seal hath been overthrown by a paper petition ; nor could we have arraigned the patent but in the king's name, to which we must have had his consent, which your more powerful interest would have prevented : so that upon the whole, you will conclude, that we went more for your advantage by the way of purchase, whereby we have made the country many great friends ; and by our moderate proceedings with the lords of the other grant, we have ex-

gaged them especially to favor the country. Many others APPENDIX.
we have made, some with and some without charge. We
have not yet perfected that bargain there, starting up a se-
venth charter, claiming under sir Dudley Wyat; nor settled
the arrears of the Northern Neck; but now the business of
the charter ha h passed the king and council, we hope in
short time to perfect the business of both grants: and so as
you will believe it money well spent and laid out. We have
applied ourselves to mr. secretary Coventry, who is one of
the worthiest persons living, in order to securing the go-
vernment to sir William Berkeley during his life, who was
hardly to be per-suaded but that we moved it to the govern'r's
prejudice, as thereby designing to keep him against his good
liking; and gave this reason, that the governor was so per-
fectedly well in the king's favor, and that his majesty so loved
his person, that they all wondered he would go from hence,
where he was last year; but upon our persisting to beg such
a mark of the king's favor to him and the country, he very
readily offered his assistance, though he still thought it un-
necessary; so we doubt not good success in it, and then we
think we have complied with all your instructions, according
to our best diligence and abilities. We have lately received
from the most worthy bishop of Winchester, to whom
the country hath very great obligations for assisting us
powerfully in all our negociations, a virulent libel against all
the planta ions, and Virginia in particular, a copy of which
we send you, and think it necessary that an answer of it
be directed from you to the archbishop of Canterbury and
bishop of Winchester, in vindication of your government.
It is written by Godwin, who sometime served in Maston
parish, and a copy of it hath been by him given to all the
bishops in England. We have since seen the fellow, and
demanded his hand to it; which he refuseth, which hath lost
much of his credit with the bishops, we shall answer it so here,
as we hope to stop the bad consequences; and on your further
orders, shall proceed aga nst the inconsiderable wretch as you
shall think fit, unless in the mean time, we find the bishop satis-
fied with our answer; we cannot now give you a particular
account of the money we have expended, nor what we have
in bank, some bills being returned, protested; but shall by
the next, and do desire, that care may be taken for trans-
mitting the rest, and a person named, in whose hands the
remaind r shall be, when we have discharged all your or-
ders, and the northern grant; and shall now insist on no

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APPENDIX. more particulars, but to assure you that we are most honored gentlemen, yours and the country's,
most faithful servants,

FRANCIS MORRYSON,
THOMAS LUDWELL,
ROBERT SMITH.

May it please your lordships,

In obedience to his majesty's order of reference, made in council 23d June last (whereby we are desired to consider of the contents of the petition of Francis Morryson, Thomas Ludwell, and Robert Smith, agents for the governor, council, and burgesses of the country of Virginia, and report our opinions, what we conceive convenient for his majesty to grant unto the petitioners) we have perused the papers, and proposals that relates to themselves, contained in the petition, and upon the consideration of the whole, we are humbly of opinion, that it will not only be for his majesty's service, but for the encrease of trade, and growth of the plantations of Virginia, if his majesty shall be graciously pleased to grant, and confirm under his great seal of England, unto his subjects in Virginia, the particulars following :

1. THAT his majesty will enable the governor, council, and commonalty of Virginia, to purchase the lands, &c. contained in the grant to the earl of St. Albans, lord Culpepper, &c. and as to that purpose, only to be made a corporation, to purchase, and maintain the same with a non obstante to of mortmain.

2. THAT the inhabitants (his majesty's subjects there) may have the immediate dependence upon the crown of England, under the jurisdiction and rule of such governor as his majesty, his heirs, and successors, shall appoint.

3. THAT the governor, for the time being, shall reside in the country, except his majesty, his heirs, and successors, shall at any time command his attendance in England or elsewhere, and then another shall be chosen, as hath been formerly used, to continue during the absence of such governor; and in case of the death of any governor, another to be chosen, as hath been formerly used, to continue till his majesty, his heirs, and successors shall appoint a new governor.

4. THAT no manner of impositions or taxes shall be laid or imposed upon the inhabitants and proprietors there, unless by the common consent of the governor, council, and burgesses, as hath been heretofore used.

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5. THAT his majesty, his heirs, and successors, will not APPENDIX.
for the future, grant any lands in Virginia, under his, or
their great seal, without being first informed by the govern-
or and council there for the time being, or some person by
them empowered, wherein such grant will not be prejudici-
al to plantations there.

6. THAT all lands, now possessed by the several planters
and inhabitants, may be confirmed, and established to them.

7. THAT, for the encouragement of such of his majesty's
subjects as shall, from time to time, go to dwell in the said
plantation, there shall be assigned of the lands, (not alre-
ady appropriated) to every person so coming hither to dwell,
fifty acres, according as hath been used, and allowed since
the first plantation.

8. THAT all lands, possesst by any subject, inhabiting in
Virginia, which hath escheated, or shall escheat to his ma-
jesty, may be enjoyed by such inhabitant or possessor, he
paying two pounds of tobacco composition for every acre,
which is the rate in that behalf, set by the governor autho-
rised to do the same by his majesty's instructions.

9. THAT the governor, and council, or a certain quorum
of them may be empowered to try all treasons, murders and
felonies, and other misdemeanors, provided they proceed in
such trials as near as may be to the laws of England.

10. THAT the power and authority of a grand assembly,
consisting of a governor, council, and burgesses, may be
by his majesty, ratified and confirmed, provided that his
majesty may, at his pleasure, revoke any law made by them,
and that no law, so revoked, shall after such intimation and
revocation thereof, from hence be further used or observed.

ALL which, we humbly submit to your lordship's consi-
deration.

WILLIAM JONES,
FRANCIS WININGTON.

11th October, 1675.

WE, the agents of Virginia, having a letter directed from
the governor to the right honorable the lord chamberlain of
his majesty's household, we thought it our duty to go toge-
ther and present it to his lordship. He having perused it,
told us, he wondered why the country should be more ag-
grieved to pay him the quit-rents granted by the patent than
to colonel Norwood and to others, since those rents had never
been accounted for into the chequer, but still received and
enjoyed by the treasurers to their own proper uses. We
replied, the country was willing to pay his lordship the rents,

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APPENDIX. but that there was certain clauses in the patent destructive to his majesty's interests, and inconsistent to the rights and privileges of the inhabitants of the country, and with that we presented him the foregoing paper wherein those clauses were inserted. After his lordship had received and considered it, he assured us, that he never intended to have such regalities vested in him, and therefore would willingly surrender the patent; but desired us to meet two gentlemen to receive our reasons against it, that he might urge them to my lord Culpepper, and persuade him to do the same. We accordingly gave the gentlemen a meeting, and at last brought the lord Culpepper, with much soliciting, to the following agreement. But before we could persuade his lordship to it, the lord chamberlain (as we heard) did most generously in council lay it down at his majesty's feet. This we thought in justice we were bound to testify, in justification of that honorable lord, and subscribe it under our hands.

FRANCIS MORYSON.
THOMAS LUDWELL.

ATTENDING his lordship the lord Arlington, the two and twentieth day of April, we gave his lordship a prospect of the destructiveness of the grant made to him and the lord Culpepper, we excepting against all the clauses of the said demise, but the paying the quit-rents, and his majesty's power in transferring them over; his lordship was pleased to desire, that his secretary and another of his gentlemen might meet with us, and come to a conclusion concerning that particular, which we assented to, and met accordingly, the next day, and that we might not spend our time in unnecessary treatise, we returned to his lordship our final resolution, which is this that follows:

WE, the subscribed agents for the colony of Virginia, out of our respects to the right honorable the earl of Arlington, lord chamberlain, and out of the sense we have of his honor's favor to us, do propose, for a final determination of the differences between his lordship and the lord Culpepper, grantees in a lease of the whole country of Virginia for thirty-one years; and as the said agents, and for the future peace and settlement of the said country, that if their said lordships would vacate the said demise utterly and to all intents, and take out another for the quit-rents, to be paid in tobacco at twelve per cent. which we conceive to be reasonable, and as low as we can submit to, since there is at least as much above at that rate as there is above it. If this be accepted we shall agree to it; provided their lordships will secure us under their hands and honor, that what we propose here

shall be effectually performed by their lordships. And because our respects to their lordships hath hitherto carried us from the putting our instructions in execution, we desire we may receive a positive answer to this proposal by Monday ten o'clock, in the morning; and we are the most earnest in this, because we have many eyes upon our proceedings, and that we cannot answer a longer delay to those that sent us hither, who are his lordship's
most humble servants.

THE gentlemen appointed to treat with us by the lord Arlington, met at the time appointed by our last paper, accompanied by colonel Norwood, who was then come to town; but we found by discourse the face of things much altered. For that proposition of ours, which before they thought reasonable, at taking tobacco at twelve shillings a hundred, they waved; desiring, that ad valorem might be left at large to be disputed on, and that the next day they would bring us a positive answer from their lordships, whether they would vacate their present patent and take a new, or justify the legality of the demise in being; and accordingly they sent a paper, subscribed with their lordship's hands, the copy wherof is this that follows:

THE gentlemen, entrusted from the assembly of the colony of Virginia, having represented to us, that the inhabitants there have taken umbrage at many clauses in the grants made to us by his majesty, and yet declaring, that they have not been instructed to make exceptions to the grant of quit-rents and escheats, other than as to the manner of paying them, which they are otherwise ready to pay unto us, according to the said grant; we have hereby thought fit to assure the said gentlemen, that those clauses were admitted only for the security of the said quit-rents and escheats, and that they being secured to us in manner following, viz. The said quit-rents payable in tobacco ad valorem, and the escheats by certain compositions, where tolerable titles shall appear, as is limited by the acts of assembly in such cases, we are ready to relinquish the other powers and clauses in the said grant.

ARLINGTON,
CULPEPPER.

NORWOOD.

April 26, 1674.

The Answer to their Lordships' Paper.

HAVING received a paper from the right honorable the earl of Arlington and lord Culpepper, in answer to some proposals made by us at the lord Arlington's desire, and

APPENDIX.

APPENDIX. finding the conditions proposed in the said paper not answering our said proposals, nor such as we desired, and being too ambiguous for us to assent to, we conceive our further treaty with their lordships to be at an end, and we no further obliged to particulars of it; and therefore must beg their lordships' pardon if we proceed upon our instructions.

April 27, 1674.

The Reason of our Dissenting.

THE right honorable the earl of Arlington and the lord Culpepper (grantees in a demise from his majesty to their lordships of the whole country of Virginia, for thirty one years) having favored the subscribed, agents for the said colony, with an answer to our former proposals, which we made to their lordships upon the lord Arlington's desire, for vacating the said grant, as contrary to his majesty's service and destructive to the peace and welfare of the colony and that their lordships would satisfy themselves with another; for the quit-rents only to be paid in tobacco at a reasonable value, which term being thought of too great latitude, we further expressed ourselves, by proposing twelve per cent. as a medium between the two sorts of tobacco made in that colony: we do humbly return this our reply to their lordships, That we did, and do still say, that we did not dispute his majesty's right to the quit-rents of that colony, nor his pleasure in transferring them, but did propose them to be paid, as above said, in tobacco at a reasonable value, which we believe twelve per cent. to be, both in respect of the price and the settlement of the people, who will know what they have to pay yearly. But this, we humbly conceive, doth not amount to those words in their lordships' answer, viz. that otherwise we were ready to pay unto their lordships according to their said grant; when, if their lordships shall please to consider our said proposals, they will find us absolutely unwilling to pay any thing upon the said grant, since we principally insist upon the utter vacating thereof, which their lordships, in their said answer, not promising to do, but upon the confirmation of the quit-rents, payable in tobacco ad valorem, and the escheats under certain compositions, according to the laws of the country for colorable titles; the latter of which, viz. the escheats, on the terms proposed we shall not scruple. They are conditions proposed in too general terms for either to understand or agree to; and therefore do humbly conceive, that unless their lordships will please first, and according to forms used, to vacate the said grant, we can treat no further, but must proceed upon our instructions, that we may no longer defer our seeking such

relief for those who sent us hither, as the exigences and processes of their present condition require. APPENDIX.

WHEREAS, we have already express, by a paper under our hands, our intention to part with all clauses in our Virginia grant, that may concern any thing but the quit-rents and escheats, which by the said paper were expected should be assured to us, payable in the manner herein set down : we being since informed, from the gentlemen instructed from the said colony, that it is not practical to levy the quit-rents otherwise than in tobacco, at a settled rate : and whereas, the same have been hitherto levied in that manner, (that is to say) at the value of two pence per pound, and that they are ready to in behalf of that government : that by an act of assembly the said quit-rents should be paid during our term, at the rate of three half pence per pound, as the most equal rate that can be set ; we think fit hereby to assure the gentlemen, that after the vacating our present patent, and passing a new for the said quit-rents and escheats, which we here promise to do, with all convenient speed, we shall readily agree to a collateral agreement with the said colony for the payment of the quit-rents and escheats, in the manner by them proposed ; they giving us an assurance, as aforesaid, that that manner of payment shall be settled by an act of assembly within six months after the passing of a new patent, and so continued during our term.

ARLINGTON.
J. CULPEPPER.

Heads, which we are commanded in our instructions to present unto his majesty, and humbly to petition him, that, by his gracious concession, they may be drawn up into a charter for Virginia, with explanatory notes on each head, as presented.

THE first head....That Virginia may be enabled, by his majesty's letters patent, by the name of governor, council, and burgesses, to purchase the lands contained in the northern grant of all the lands between the rivers of Rappahannock and Potowmack, granted to the earl of St. Albans, lord Culpepper, &c. and that, when the patentees of that grant have assigned over the right and interest of that patent, that then as full and ample power may be in the governor, council, and burgesses, as was formerly in the patentee, before such assignment.

THAT we may the better understand, as well by his majesty's learned council, (who are by the order of the references to report) as by the right honorable the committee (who, by

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APPENDIX. the same order, are to receive and consider it) we have thought it a necessary duty to explain each head presented whereby we may take off all suspicion that we intend not (whilst we humbly petition his majesty, for a confirmation, of our just rights and privileges) to obtain such a power from him as may hereafter justle with the royal prerogative, which we have (and shall always) to our utmost endeavors assert.

For the clause of the first head, of incorporating governor, council, and burgesses, we do hereby declare, that no more is meant or intended by it, but that the country may be made capable of purchasing two grants, which his majesty has been pleased to grant, which otherwise are (and will be) very uneasy to the country. But if it may be otherwise eased by a compensation from the honorable patentees, and that the grants may be revoked, we shall then most willingly acquiesce, and no further insist upon that for an incorporation.

And clearer to demonstrate, that his majesty's interest is as well aimed at by this purchase as the country's ease and quiet, (which is his majesty's interest too) we shall not desire so great benefits and privileges by our assignment as the honorable patentees do and may by their patents claim; but shall most willingly assent, and do most humbly desire, that all those regalities divested from his majesty, may be again invested in him, (the quit-rents excepted) which, we humbly conceive, cannot be reckoned in that number, since they are no other than the fee farm rents, (which have been granted here) as those of Virginia, which are transferred to their lordships by their patent.

For the power of granting land, as well in the Northern Neck, which we are to purchase, as in the rest of the country, we desire may be in his majesty's governor and council, as formerly impowered thereunto by royal instructions, and that the composition for escheats may be there (as it is in the rest of the country) left to the governor and council, as ordered by his majesty's last instructions to sir William Berkley.

THAT if there can be no other way found out to enable a community of men to purchase, but (incorporating) a word we are by no means in love with, then we humbly desire, that it may be so limited and circumscribed as to be only effectual for purchasing, (the end that we have expressed, and intended for it) without which the country must be either forced to lie under a burthen, how uneasy soever, or never hope to be reimbursed with any part of the money they are to give (with the whole we are sure they cannot) since the

Interest of it is much more than the annual rents, which they are to purchase. APPENDIX.

To conclude, all we have to add to this first head is, that we humbly hope it will not be thought unreasonable, that the country should enjoy the quit-rents and compositions for escheats of all lands granted between the rivers of Potowmac and Rappahannock for ever, as it was granted the said lords and their heirs, &c at the same value as they have been formerly paid, or shall hereafter be paid by the rest of the country, since the country must pay so great a sum for the purchase of them, and without which they cannot part with their money, having no other way to be reimbursed. Wherefore, we shall desire, that after the surrender of the grant by the said patentees, that that part only, which concerns the quit-rents and escheats, may be granted by his majesty to the country.

THE second head... That his majesty will be pleased, in his royal grant, to assure the people, that it is his majesty's intention (as it has been all his royal predecessors', as will appear by many gracious grants and concessions made to them) that Virginia shall have no other dependence, but only upon the crown of England, now, for the future, be cantonized by grant into parcels, made to particular persons; and for prevention of all surreptitious grants, that his majesty, for the time to come, will be graciously pleased so long to suspend the passing of such grants, until he be informed by his governor and council there (or some empowered from them here) of the fitness or unfitness of them.

EXPLANATION of the second head:

We say, and do declare, that we do not intend, or hope for any unlimited power to be granted us, or such as may lessen his majesty's authority in that country; but on the contrary, that by the said charter we may be assured to depend only on the crown, under the protection whereof we have always esteemed ourselves most secure, and cannot be happy if any ways hereafter aliened from it.

THE third head...That all land may be assured to the present possessors and owners of it.

EXPLANATION of the third head:

We humbly conceive, that it will be thought reasonable and necessary, for the peace and welfare of the country, that all lands granted by their majesty's governor, empowered thereto by royal instructions, may be confirmed and assured to the present possessors and owners of it, since upon confidence of such grants the inhabitants have been encouraged to lay out their estates, and employ their industry upon the said several tracts of land, for the improvement and advancement of that country.

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APPENDIX. AND since by experience tis found, that the granting fifty acres of land for every person, hath, next to the blessing of God, (and the indulgent care of our most gracious princes) been the greatest means of promoting the settlement of that country, and bringing it to the present hopeful condition that now it is in, and from whence arises so great an emolument to the crown and kingdom: we therefore humbly pray, that the same encouragement may be continued (as before used) to all adventurers thither.

THE fourth head....That all lands, which have been held in right of administration, acquisition, or other customary title, may be assured to the possessors; though, perhaps, by strictness of law, they may be found escheated to his majesty, which, if it shall so happen, that then his majesty's escheators shall take no more than two pounds of tobacco per acre, as is ordered by governor and council, empowered by his majesty's last instructions to make composition for escheats.

EXPLANATION to the fourth head :

THAT the governor, instructed by his majesty's last instructions to make compositions for escheats, and finding by enquiry thereinto, that many held their land by colorable titles, which, in every deed, for want of heirs, were, by law, escheated to his majesty; yet, upon due consideration of the disturbances that must of necessity arise, by ousting so many from their possessions, so long enjoyed and so much improved by their estates and industry, and that no emolument could any ways accrue to the crown by regranting such lands to strangers and new adventurers; he therefore, most prudently, with the advice of the grand assembly, (to avoid all such inconveniences) set and prefixed one general composition for all lands so held and so escheated, viz two pounds of tobacco per acre: which composition we most humbly desire, may be confirmed by his majesty, for the better settling and quieting of the minds of the present possessors.

THE fifth head....THOUGH we shall never presume to nominate to his majesty a governor and council, or refuse any that he shall please to send us, yet we humbly desire, that our governor, council, and chief officers may be resident in the country: and if it chances the governor's private occasions shall draw him thence, (which shall be thought necessary either by his majesty here, or four of the council there) that then the deputy governor may be one of the council, and such as has an estate and interest in the country.

EXPLANATION to the fifth head :

No more is intended, or can be, by this head, but that his majesty may have the better account of the country, when managed by a person principally entrusted with it; and that

his subjects may not be left, in case of the governor's absence, to strangers, who have no interest in the country to be responsible for any misdemeanors or oppression committed there. Nor is this a new or groundless fear, since it hath been always thus carefully provided against; as will appear, not only by the commission of the present governor, but of all the former, since the foundation of the government.

THE sixth head....That his majesty will be graciously pleased, in this his grant, fully to empower the governor and council for the time being; or a quorum of them, consisting of the governor, and as many of the council as his majesty shall think fit, to hear and determine all treasons, mis..... of treasons, murders, and felonies, since the government being so remote, ought to be armed with all authority and power, necessary for the suppressing and punishing offences of that nature.

EXPLANATION to the sixth head :

No more is desired by this, but that, instead of a commission of oyer and terminer, (which oath the governor now hath) there may be a standing power in the charter for the governor for the time being, and a quorum of the council, to hear and determine all criminal causes, and this to prevent a justi whereby such offences would go unpunished.

THE seventh headThat there shall be no tax or imposition laid on the people of Virginia, but according to their former usage, by the grand assembly, and no otherwise.

EXPLANATION to the seventh head :

WE therefore, hope, that his majesty and most honorable council, with our learned referees, will not think us immodest in humbly petitioning for this; especially if they please to consider, that both the acquisition and defence of this country hath been, for the most part, at the country's charge: and that the whole support now, both of governor and government, is defrayed wholly at the people's charge, which occasions the annual taxes there to be very high, and will not only continue so, but must, with the growth of the country, every year be encreased.

THE eighth head... His majesty is humbly desired to confirm, by his royal charter, the authority of the grand assembly, consisting of governor, council and burgesses.

EXPLANATION to the eighth head :

THIS in effect is to pray, that all laws made, or hereafter to be made for Virginia, may be of force and value, since the legislative power has ever resided in an assembly so qualified, and by fifty years' experience, has been found a government more easy to the people and more advantageous to

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APPENDIX. the crown ; for, in all that time, there has not been one law complained of, as burthensome to the one, or prejudicial to the prerogative of the other. And though his majesty's governor has ever had a negative voice in the said assembly, yet, to express how far we are from desiring that his majesty should any ways be concluded by any laws made, we do humbly offer (that besides the negative voice there) his majesty shall reserve full power here to disannul any law, so that his dissent be signified to the governor and council within two years after the enacting of it. And to make this effectual, the laws shall annually be transmitted, and presented to one of the principal secretaries of state, to know his majesty's royal pleasure therein.

THUS, in all humility and duty, have we presented this paper, which contains not any thing in it but what we are particularly enjoined to offer by our instructions, and what we ourselves know, by long residence there, to be absolutely necessary for the peace and quiet of that country, which undoubtedly, is his majesty's chiefest interest to preserve.

Notes, explanatory of some of the heads annexed to the petition of the Virginian agents, referred to mr. attorney and solicitor, with somewhat of answer to some things objected.

FIRST.....As to the point, whether the Virginians are in reason to be assured under his majesty's great seal, that they shall not be taxed without their own consent.

1. IT is humbly conceived, that if his majesty deduce a colony of Englishmen by their own consent, (or otherwise he cannot) or license or permit one to be deduced, to plant an uncultivated part of the world, such planters and their heirs ought to enjoy by law, in such plantation, the same liberties and privileges as Englishmen in England ; such plantation being but in nature of an extension or dilatation of the realm of England

2. KING James did, by the charter to the treasurer and company, declare, that their posterity and descendants born in Virginia should be taken as natural born subjects of England, (as, in truth, without any declaration or grant, they ought by law to be) ; which charter, although for the misgovernement of the company it were demanded in a quo warranto, yet did the said king forthwith promise and declare, that a charter should be renewed with the former privileges to the planters, at whose instance and for whose sake the said charter was called in.

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3. NEITHER his majesty, nor any of his ancestors or pre-decessors, have ever offered to impose any tax upon this plantation, without the consent of his subjects there.

4. NOR upon any other plantation, however so much less deserving of, or considerable to his crown, New-England, Maryland, Barbadoes, &c. are not taxed but of their own consent.

5. As for their land, the Virginians are freeholders in common, as of the manor of East-Greenwich.

6. THEIR goods, the product of their industry and of their servants, being the principal part of their estates, (in respect whereof their lands are of considerable value) yield to the king in his customs at least one hundred thousand pounds per annum.

7. THE acquisition and defence of the country, was, and is by the blood and treasure of the former, and present planters and seafarers, never costing the crown of England any thing in all their wars.

8. THEIR taxes already are, and must continue high upon them for the maintenance and support of the government, execution of laws and justice, and defence, and ornament of the country, erecting and endowing of churches, maintenance, ministers of English ordination, doctrine and liturgy; building and furniture, of forts, bridges, ships of war, towns, &c.

9. THEIR course of taxing (which is ever only p. poll) sheweth how far the personal industry of the people, is and ought to be valued above their lands and stocks.

10. THE petitioners have an express charge to insist on, this particular, and since they find their right herein to be questioned, they find it necessary to have this particular cleared, and the referrees herein satisfied before they proceed to any other.

SECONDLY.....As to the desired incorporation whereby, as is objected, the petitioners seek to have the whole country incorporated.

THE end and design of the Virginians herein, is to be enabled to purchase the northern patent, granted to the earl of St Albans and others, for which, and with whom their agents have contracted; which if they may have to the benefits of the country, the quit-rent and escheats are granted to the said earl and his co-grantors by that patent and the royalties, franchises, and things granted by the same patent, and by the letters, patent to the earl of Arlington and lord Culpeper, may be restored to the crown and the country, be assured by a charter of perpetual immediate dependance on the crown, (divers times promised by King Charles the first) and that they shall not be charged or

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APPENDIX. taxed but by their own consent (which they know to be involved in the parliament of England) and so as they may be among them a standing commission of oyer and terminer for ministration of justice in crown causes according to the law of England. The petitioners are not further solicitous touching the farming, or naming the incorporation, or touching any thing thereto relating which the referrees shall apprehend to be offensive, or liable to exception, or derogatory to prerogative or inconvenient to the crown.

THIRDLY....As to the Virginians having that which will look like a parliament. It is desired the referrees will be pleased to consider that no alteration of the present Virginian government is at all desired, but earnestly that the same may be assured to be enjoyed, and may be established and confirmed by his majesty's charter, the government having been found by fifty years experience to be naturally commodious and beneficial to the people, and in an humble subordination representing and agreeing with the English monarchy, being constituted by letters patents of his majesty's ancestors and by their commissions and instructions to the successive governors for all said time past since the calling in of the said charter to the treasurer and company of a governor, council and burgesses, making up the grand assembly which hath power to make laws correspondent as near as may be to the laws of England, and the governor having a negative voice, which power of the grand assembly, and the governor, the petitioners desire to have confirmed, saving always to his majesty the power to annul any such laws within two years after the making; in the mean time is to be valid.

FOURTHLY....As to the objection from the example of New-England.

IT is humbly answered that no desobedience of that plantation ought to cause apprehension of the same in Virginia, whose people steer a quite contrary course from them, for they endeavored as much as they could to sever themselves from the crown; whereas the chief desire of the petitioners is to be assured of the perpetual immediate dependence thereon.

THEY discover anti-monarchical principals in affection of republican form of government, distinct and independent from the policy of England. But the petitioners are, and ever have been heartily affectionate and loyal to the monarchy of England, and under that to their present government of Virginia, constituted as they humbly conceive in imitation of it.

THEY have obtained power of chusing their governor. But the petitioners would not have that power, but desire their gov'r. may be from time to time appointed by the King.

THE New-Englanders imagine great felicity in their form APPENDIX. of government, civil and ecclesiastical, under which they are trained up to disobedience to the crown and church of England. but the Virginians would think themselves very unhappy to be obliged to accept of, and live under a government so constituted, altho' they might therewith enjoy all the liberties and privileges the New-Englanders do, or whatsoever greater they might be put in hopes of.

AND since the agents of that country have presented no head to be inserted into a charter (but what their instructions commands, and they themselves know most necessary for his majesty's interest there, and the peace and quiet of that country) it is therefore humbly desired on the behalf of themselves and that country, that if any thing shall appear not so clear and conduced to those ends as is intended, that then the learned referees will be pleased to hear then by their council before they make and give in their report, which may otherwise conclude them in some necessary point that they must be forced to insist on.

Most honored gentlemen,

WE have since the writing of that above, applied ourselves to the lord Chamberlain to desire him, now the court is at leisure to take out a new grant for the quitrents and escheats according to our agreement, but he desired a meeting where col. Norwood and the lord Culpeper might be present, which yet hath not been effected, and proposed the purchasing it, that the grant might pass in the country's name, which we did not agree to, but desired that their lordships' might first ascertain their grant, and then if they would set a reasonable value upon it; we would advise you of it, and follow such instructions as you should give us therein, but while matters are of this uncertainty, we desire you to consider the inclosed copy of their agreements with us, and then you will be best able to judge whether the country can safely pay any rent upon that grant, which they engage to surrender, or upon col. Norwood's patent, which he hath upon a collateral agreement with them given up into your hands: we think fit further to advise you, that the country hath been obliged to Henry Chickeley, whose letter to his brother hath taken him of hitherto from opposing his interests against our proceedings, and we hope he ever will be a friend to the country, and therefore we suppose you will according to your

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APPENDIX. promise in the letter you sent him, be as kind to him as you can, and give him for it the thanks of the house.

Your most humble ssrvants,

FRANCIS MORRYSON,

THOMAS LUDWELL.

London, the 27th of
November, 1675. }

WHEREAS, his majesty has been graciously pleased by his letters, patents, under the great seal of England, to favor us, Henry earl of St. Albans, John Berkeley, sir Jas. Morton, assignee of sir Wm. Morton, deceased, and mr. Trethywy, holding under the title of Ralph lord Hopton, with a grant of all that entire tract of land lying between the two rivers of Rappahannock and Potomac in Virginia, together with the rivers themselves and all islands within the said rivers under such conditions and reservations as are at large exprest in the said letters patents : and whereas Thomas lord Culpeper, and Alexander Culpeper, esquire, by a collateral agreement with us, do hold two sixth parts of the said grant, we do hereby declare, consent and agree to, and with the said agents, col. Francis Morryson, Thomas Ludwell, secretary of Virginia aforesaid, and col. Robert Smith, that we will so soon as his majesty shall by incorporating that country put them in a condition of purchasing our rights ; accept of the several sums of money proposed to us by the said agents, viz. four hundred pounds each person concerned in the said grants, and that in consideration of those said sums, we will resign all our several rights, titles, interests in the said grant unto the said corporation for ever.

Resignation
of Northern
Neck to
Virginia.

IN WITNESS whereof, we have hereunto set our hands and seals this 20th day of May, 1675.

H. ALBAN,

THOS. CULPEPER,

JOHN BERKELEY.

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At the court at Whitehall, November 19, 1675.

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PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

His highness Prince Rupert,	Earl of Essex,
Lord Keeper,	Earl of Craven,
Lord Treasurer,	Earl of Carberry,
Lord Privyseal,	Viscount Fauconberg,
Duke of Albermarle,	Viscount Halifax,
Duke of Monmouth,	Viscount Newport,
Earl of Bridgewater,	Mr. Secretary Coventry,
Earl of Northampton,	Mr. Secretary Williamson,
Earl of Peterborough,	Mr. Chancellor of the Dutchy.

WHEREAS the right honorable the lords of the committee for foreign plantations, did this day present to his majesty in council, a report touching a grant to be passed to his majesty's subjects in Virginia, in the words following :

May it please your majesty,

THE petition of Thomas Morryson, Thomas Ludwell, and Robert Smith, agents for the governor, council and burgesses of the country of Virginia and territory of Accomac, by your majesty's most graciour order, in council, of the 23d of June last passed, referred to your majesty's attorney and solicitor general, who were to consider thereof as also of a paper annexed, containing more fully the heads of what they humbly proposed, and then to report unto us their opinion on the same as to the conveniency thereof in respect to your majesty's service, and we having seen and examined the said report, bearing date the 12th instant ; are upon the whole matter humbly of opinion that it will not only be for your majesty's service, but for the increase of the trade and growth of the plantations of Virginia ; if your majesty shall be pleased to grant and confirm under your great seal of England unto your subjects of Virginia the particulars following, as of your majesty's free grace and goodness to them.

1. THAT your majesty will enable the governor, council, and commonalty of Virginia, to purchase the lands, &c. contained in the grant to the earl of St. Alban, lord Culpeper and others, and as to that purpose, only to be made a corporation, to purchase and retain the same with a non obstante to the statute of martman.

APPENDIX. 2. THAT the inhabitants, your majesty's subjects there, may have their immediate dependence upon the crown of England, under the jurisdiction and rule of such governor as your majesty, your heirs, and successors, shall appoint.

3. THAT the governor, for the time being, shall be resident in the country, except your majesty, your heirs, and successors, shall at any time command his attendance in England or elsewhere, in which case a deputy shall be chosen, to constitute during the absence of such governor, in manner as hath been formerly used, unless your majesty shall please to nominate the deputy, who is to be one of the council; but if any governor happen to die, then another to be chosen as hath formerly been used, to continue till your majesty, your heirs, and successors, shall appoint a new governor.

4. THAT no manner of impositions or taxes shall be laid or imposed upon the inhabitants or proprietors there, but by common consent of the governor, council, and burgesses, as hath been heretofore used, provided that this concession be no bar to any imposition that may be laid by act of parliament here, on the commodities which come from that country.

5. THAT your majesty, your heirs, and successors, will not for the future grant any lands in Virginia under your great seal, without first being informed by the governor and council there for the time being, or some person by them empowered, whether such grant will not be prejudicial to the plantations there.

6. THAT all lands now possessed by the planters or inhabitants, may be confirmed and established to them, provided it alter not the property of any particular man's interest in any lands there.

7. THAT for the encouragement of such of your majesty's subjects as shall from time to time go to dwell in the same plantation, there shall be assigned out of the lands (not already appropriated) to every person so coming thither to dwell, fifty acres according as hath been used and allowed since the first plantation.

8. THAT all lands possessed by any subject inhabiting in Virginia, which have escheated and shall escheat to your majesty, may be enjoyed by such inhabitant or possessor, by paying two pounds of tobacco composition for every acre which is the rate in that behalf, set by the governor authorized to do the same by your majesty's instructions.

9. THAT the governor and council, or certain quorum of them may be empowered to try all treasons, murders, felonies, and other misdemeanors, provided they proceed as near

as may be (in those trials) to the laws of England, the governor to have power to pardon all crimes, unless murder and treason, and in these, if he see occasion to give reprieve until he shall have laid the state of the fact before your majesty, and receive your royal determination therein.

10. THAT the power and authority of the grand assembly consisting of governor, council, and burgesses, may be by your majesty ratified and confirmed, provided that your majesty may at your pleasure revoke any law made by them, and that no law so evoked, shall after such revocation and intimation thereof, from hence be further used or observed.

All which is humbly submitted
to your majesty's determination.

Council chamber, 19th }
November, 1675. }

His majesty having considered the said report, and being graciously inclined to favor his said subjects of Virginia, and give them all due encouragement, hath thought fit to approve and confirm the same, and mr attorney general, and mr solicitor general, are hereby required to prepare a bill for his majesty's signature in order to the passing of letters patents for the grand settlement, and confirmation of all things according to the direction of the said report, but paring the words and manner of expressing, so as may be most suitable to the form of law in such cases accustomed, and to the petitioners relief.

March 10, 1675-6.

SIR,

BEING unwilling to trouble mr. secretary Coventry again after having been so favorably, and so often admitted to inform him of the state of that country, which sent us hither, and yet considering that to-morrow night our business may be likely to receive such a check as may be fatal to it, we are necessitated to desire you before that time comes to find a fit opportunity to represent to his honor, that the country now in question hath such merits by his loyalty, conformity and utility to the crown and nation as may justly claim a more than ordinary care for its preservation, that it has as just a right to most of the heads granted us, and can be derived from the gracious and royal promises of all our Princes since the first seating; that this country hath upon its confidence of a continued protection from the crown, freely hazarded their lives, and employed their estates and indus-

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APPENDIX. tries for the advancement of the plantation to its present hopeful condition, and could still have cheerfully persisted so to do, had they not found themselves unexpectedly bro't under the severe conditions of two grants which seemed almost wholly to separate them from the crown, to avoid which they employed us as their agents, to endeavor the removal of those grants under which they could not prosper; and humbly to address ourselves unto his majesty, for such gracious concessions to pass under the broad seal, as might render them for the future unseparably affixt to the crown, and settle them to those just rights and privileges as were their due whilst they lived in England, and which they humbly hope that they have not lost by removing themselves into a country where they hazarded their lives and fortunes, so much more to the advantage of the crown and kingdom, than to their own; all which being contained in our petition, and the heads annexed, and presented to his majesty in council, it was referred to the lords' committee for plantations, who (out of their great care, that a business of so high concernment between the King and his subjects might not pass slightly) referred the full consideration of the whole matter to his majesty's learned council; in the law the attorney and solicitor general, who with much care and pains for above a month's time examined us and our cause, and upon the whole drew up and signed their report, which was presented to the lords committee of plantations, who upon a second examination, and expence of much time and pains upon it were pleased with altering some things, and taking others from us to pass their lordships' report to the King and council, where it passed nemine contradicente by his majesty and a full board, amongst whom were all the great ministers of state, present into an order which we with joy soon sent in to the country, together with an account of the hopeful way we were in to end all their affairs here, to their present content and future security, thereby to free them from that consternation which was upon them; but when we had brought that his majesty's gracious grant, approved on by his most honorable privy council (after it had passed so many strict examinations to the great seal) we find it stopped there, which grieves and amazes us the more for that we cannot find, for what cause; we therefore again earnestly desire you to recommend to his honor, that he will be pleased to represent to the consideration of those lords, who may be the opposers of this grant, the merits of the country, and the hazard it is at present in whilst they are in anxious doubts of their condition from hence, and hotly invaded by the Indians; within how detrimental it will be to the revenue of the crown

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and nation if their feare be not allayed and condition settled so as may keep them from going to places of more liberty, or to return to their ancient privileges in England, and so leave that country too weak to defend itself, and that his honor will be pleased to consider that having sent the order into the country, we as agents cannot conclude the country by receiving less than what was formerly granted us, and if his honor pleaseth to propose that if the stop be not removed any otherwise, that the business may be again debated before his majesty and most honorable council, where the King's council may be present, and as many of the lords committee for plantations, as may be to give their reasons for their reports which we humbly hope will be the expedient to remove all scruples, and do most heartily pray it may because we are well assured it is for his majesty's service, and the very being of that oldest and best plantation that ever went from hence.

SIR,

We will trouble you no further, but once more to recommend these particulars to your care, that his honor be acquainted with them as coming from,

SIR,

Your most humble servants.

The Kings' most sacred majesty.

Francis Morryson, Thomas Ludwell, and Robert Smith, agents for our majesty's colony of Virginia,
In all humility do present,

THAT your majesty's petitioners being employed, and instructed from the government of that colony, most humbly to petition your majesty for a confirmation of their just privileges and properties under the great seal of England, did (about nine months since) accordingly present their humble petition to your majesty, together with such heads annexed to it as they were charged to seek from your majesty's Princely favor, which petition with the whole matter of it and the heads were referred by the lords of your majesty's privy council to the right honorable the committee for plantations, and from thence to your majesty's council learned in the law, (mr. attorney, and mr. solicitor general) to examine us and our case, who after much time, care and pains spent in searching into the present uncertain and distracted condition of the country, and the reasonableness of their humble re-

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APPENDIX. quest and every part and branch of it and considering how much it would be for your majesty's service, that your subjects there should be by your royal grace and favor, secured in those rights which are common to the rest of your subjects, and receive such other favorable concessions from your majesty as might reasonably tend to the future encouragement of that plantation (from whence comes so many and great advantages to your majesty, and this your kingdom of England) did draw up in their report so much as they thought might be justly and reasonably granted them, which being given in to the right honorable the committee or plantations, it was by those honorable persons again very carefully examined, and with some alterations was from their lordships reported to your majesty in council, where (at a full board and all your majesty's great ministers of state present) your majesty was most graciously pleased (out of that princely justice and goodness, which you constantly extend to all your subjects) to pass their lordships' report into an order for a bill to be passed under your great seal, but so it is, may it please your majesty, that after we had brought it to the great seal we found it stopt there (though we can by no means find the cause) which very much afflicts your petitioners, and the rather for that they sent a copy of the said orders long since into the country, as believing it to be for your majesty's service, that the minds of your subjects there should (as speedily as might be) be settled, and by the receiving so great an evidence of your majesty's royal favor towards them, they might be the more encouraged to defend the country against the present invasion of the Indians; since by that royal grant, they were secured of their just property in what they fought for: wherefore we do in behalf of ourselves and them, most humbly cast ourselves at your majesty's feet, praying for an order to the right honorable the lord chancellor to pass the said grant under the great seal, that your subjects there may not fall from those hopes, the copy of that grant hath given them, nor be discouraged for the future to hazard themselves and their estates for the future improvement, advancement, and security of that plantation, by finding themselves unfortunately deprived of that grace and favor which your majesty hath and doth still extend to all your other subjects.

And they shall for ever most humbly and heartily
pray for your majesty's long and happy reign.

CHARTER.

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CHARLES the second, &c. to all to whom these presents shall come, greeting;

KNOW ye that we of our especial grace, certain knowledge and meer motion, have declared and granted, and by these presents, do for us, our heirs, and successors, declare and grant, that all the subjects of us, our heirs, and successors, from time to time inhabiting within our colony, and plantation of Virginia, shall have their immediate dependence upon the crown of England, under the rule and government of such governors, or governors, as we our heirs, and successors, shall from time to time appoint in that behalf, and of or upon no other person or persons whatsoever; and further that the governor for the time being, shall be resident in that country, except we our heirs, and successors, shall at any time demand his attendance in England or elsewhere, in which case a deputy shall be chosen to continue during the governor's absence in manner as hath formerly been used, unless we, our heirs, and successors, shall think fit to nominate such deputy, and further, if any governor shall happen to die, then another governor shall and may be chosen as hath been formerly used, to continue until we, our heirs, and successors, shall appoint a new governor; and moreover, that all lands now possessed by the several and respective planters or inhabitants of Virginia, are and shall be confirmed and established to them and their heirs for ever, where the property of any particular man's interest in any land there, shall not be altered or prejudiced by reason thereof, and our further will and pleasure is, and we hereby of our further grace and favor, declare and grant that for the encouragement of such our subjects as shall from time to time go to dwell in the said plantation, there shall be assigned out of the lands (not already appropriated) to every person so coming to dwell, fifty acres according as hath been used and allowed since the first plantation, to be held of us, our heirs, and successors, as of our manor of East Greenwich in our county of Kent, in free and common socage; and further that all lands possessed by any subject inhabiting in Virginia, which escheated or shall escheat to us, our heirs, and successors, shall and may be enjoyed by such inhabitant or possessor, his heirs, and assigns for ever, paying two pounds of tobacco composition for every acre which is the rate set by our governor according to our instructions to him in that their governor and council for the time being, and in the absence of the governor the deputy governor and councillor, or any five or more of them (whereof

APPENDIX. the governor or his deputy (to be always one) shall and hereafter by hath full power and authority to hear and determine all murders, treasons, felonies, and other offences, committed or done within the said government so as they proceed therein as near as may be according to the laws and statutes of this our kingdom of England; and lastly, know ye that we being of our royal goodness, graciously inclined to favor the subjects of us, our heirs, and successors, which now do, or hereafter shall inhabit in the said country of Virginia, and to give the more liberal and ample encouragement to plantations there, do hereby declare our royal will and pleasure to be, that all and every clause, article, and sentence in these our letters patents contained, shall be from time to time, forever hereafter as often as any ambiguity, doubt, or question, shall or may happen to arise thereupon be expounded, construed, deemed or taken to be by us meant and intended and shall E... and take effect in the most beneficial and available sense to all intents and purposes, for the benefit and advantage of the subjects of us, our heirs, and successors of Virginia aforesaid, as well against us, our heirs, and successors, as against all and every other person and persons whatsoever, any law, custom, statute or usage to the contrary thereof in any wise notwithstanding.

IN WITNESS, &c. WITNESS ourself at Westminster the tenth day of October, anno regni regis Caroli secundi vicesimo octavo.

Peripsem Regem.

END OF THE SECOND VOLUME.

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